

Dear City Council Members,

I am writing on behalf of Ferrous Processing & Trading (FPT), a metal recycling operation owned by Cleveland-Cliffs Inc. ("Cleveland-Cliffs," or "Cliffs"). FPT is a key supplier to the metals industry of North America. Cleveland-Cliffs is the largest producer of flat-rolled steel in North America and relies on prime scrap to support flat-rolled steel production. FPT is a critical part of the company's raw materials and sustainability strategies. FPT maintains 6 locations in Detroit, Michigan in addition to sites in Ohio, Tennessee, Mississippi, Florida, Mexico, and Canada.

I am writing with respect to the proposed ordinance to regulate fugitive dust emissions in the City of Detroit. While I support the purpose of the ordinance to improve air quality in our city, I do not support the ordinance as written for the reasons outlined below.

1. Opacity limits for onsite activities are unreasonably low.

Page 29, Line 2-4, provides that:

"An owner of the property, community establishment or community establishment designee, or other person responsible for any fugitive dust regulated by this division shall not cause or allow fugitive dust from an activity that has an opacity greater than five percent."

This standard is applicable to both new and existing facilities, regardless of whether such facilities currently have fugitive dust plans or air permits approved by the Michigan Department of Environment, Great Lakes and Energy (EGLE).

- This is an impossible standard for many community establishments to meet, and inconsistent with the state opacity standard set forth in MCL 324.5524(2), which sets opacity limits from fugitive dust sources in the 5-20% level based upon the source.
- Every community establishment that has a car driven on unpaved or paved access or parking areas, does lawn maintenance, etc., will exceed the 5% opacity. The zero percent opacity limit will also prevent maintenance of greenspace in City rights of way or sweeping of sidewalks by an adjoining community establishment.

I respectfully recommend that the City review the science behind opacity and establish standards consistent with EGLE and EPA. Exceptions to the opacity limit should also be made while maintaining adjoining City sidewalks or rights of way by a community establishment.

2. Timing to implement corrective action measures is too short. In addition, the method of delivering a corrective action order to a community establishment should be identified to assure prompt notice to authorized representatives.

Page 31, Lines 14-18 provide that:

"(e) If the BSEED issues a correction order to an existing community establishment based on an inspection, the community establishment designee shall install or add any control measures approved by BSEED within two weeks of the date the correction order is issued"

Two-weeks from the date of the order is not enough time for a community establishment to verify the cited issue, identify the corrective measure, obtain BSEED approval, and implement the corrective measure, assuming the order is even received on the date of issue. This is an unreasonable requirement for anything other than minor corrective actions, like removing track-out or sweeping internal roadways. The installation of controls will be dependent on many variables, like availability of equipment, contractor availability, and engineering timelines.

It is also very common for establishments in the City to not receive copies of correction orders from BSEED, which may be delivered to wrong addresses, issued after business hours and stuck in fences where they are not seen by establishment representatives, or not delivered at all.

I respectfully recommend that timeframes to implement corrective actions be modified to commence upon actual receipt of the order by the community establishment and provide two weeks for minor corrective actions and 30 days for other corrective actions, or as otherwise negotiated with BSEED. In addition, corrective orders should be required to be hand delivered to the community establishment designee and mailed to the address identified on the community establishment's City of Detroit business license.

3. It is unreasonable to require an existing community establishment to shut down activities after two weeks until BSEED approves a new fugitive dust plan (up to 30 days). Page 32, Lines 1-3 provides that if a corrective order is issued from BSEED and control measures have not been implemented in 2 weeks:

"... All dust generating activities must cease until BSEED approve the fugitive dust plan."

This requirement will likely result in shutting businesses down for extended periods of time.

I respectfully suggest that the requirement for an existing community establishment to shut down activities until BSEED approves a new fugitive dust plan be removed. In addition, in the event BSEED does not reply within 30-days, the submitted plan becomes the approved plan.

4. The Fugitive Dust program should not be based on fines issued as this provides undue motivation to issue fines to increase program funding.

Page 34, Lines 5-22 provides:

"The City shall ensure that the annual budget contains an appropriation to the Fugitive Dust Fund in an amount, at a minimum, commensurate with the money generated by the collection of Fugitive Dust penalties under this division..."

I respectfully request that fines issued under the fugitive dust program be placed into the general fund. Furthermore, funding of the fugitive dust program should not be linked to fines issued in the prior year.

5. A High-wind event classified by wind speeds of 20 mph is overly restrictive.

Page 11, Line 20 provides:

"High-wind event means wind speeds in excess of 20 miles per hour" ... During these events, "Disturbance of outdoor material piles, including but not limited to outdoor loading, unloading, and any other processing, shall be suspended during high-wind events unless alternate measures are implemented to effectively control fugitive dust in accordance with the approved fugitive dust plan"

Defining "high-wind events" as anything in excess of 20 mph is arbitrary and overly restrictive. Winds in excess of 20 mph are frequent and may or may not necessitate additional measures. Not all material stored outdoors produces dust when loaded, unloaded, or disturbed. In fact, scrap metal rarely, if ever, causes fugitive emissions when loaded, unloaded, or disturbed.

I respectfully recommend deleting this provision or following the EGLE/EPA standard, lifting opacity related restrictions when winds are over 25 mph. MCL 324.5524 (2)

6. Robust due process procedures must be provided before BSEED can shut a business down for violations of the proposed ordinance.

Certain community establishments have had experiences where inspectors have issued corrective action orders or cease and desist orders forcing businesses to shut down without appropriate due process. Community Establishments must be afforded an opportunity for a hearing prior to having to cease business operations.

7. Finally, the Alternative Compliance provisions to the proscribed provisions in the proposed ordinance should also apply to scrap processors subject to the alternative

compliance provisions in Section 22-5-7 of the City's Bulk Storage Ordinance.

Page 35, line 8 sets forth Section 8-15-593 "Alternative Compliance", which allow for alternative compliance for City of Detroit agencies or departments or community establishments that have submitted a state operating plan pursuant to MCL 324.5525.

The provision for an alternative compliance option for community establishments with state operating plans is consistent with the City's Bulk Storage Ordinance provisions. That ordinance, however, also provides for alternative compliance for certain scrap processors. This does not include all scrap metal, junk yards or salvage yards, but those unique scrap metal processing facilities which are similarly regulated under a variety of state laws. The inclusion of an alternative compliance program for this limited category of scrap metal processing facilities was carefully considered by Council and stakeholders during deliberations of the Bulk Storage Ordinance.

I respectfully request that the Alternative Compliance provisions set forth in Section 22-5-7 of the City's Bulk Storage Ordinance be similarly included in this fugitive dust ordinance.

Again, I support the City's objectives to improve the air quality in the City of Detroit and believe the changes requested to the ordinance will support that objective and provide for a fair and achievable compliance program. I am happy to meet with members of Council or staff to discuss my comments in more detail.

Thank you for your attention to this matter.

Sincerely yours,

Tony Levin