



MIKE DEWINE

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February 3, 2017

The Vice President
Eisenhower Executive Office Building
W Executive Avenue, NW
Washington, DC 20500

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Paul Ryan
Speaker
United States House of Representatives
H-232, US Capitol
Washington, DC 20515

**RE: National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production
80 Fed. Reg. 37,366 (June 30, 2015) and 82 Fed. Reg. 5401 (Jan. 18, 2017)**

Dear Mr. Vice President, Majority Leader McConnell, and Speaker Ryan:

As the chief law officer for the State of Ohio, I ask you to employ all available measures to ensure that a U.S. EPA rulemaking does not cripple our country's ferroalloys industry. Eramet Marietta, Inc., located in Marietta, Ohio and Felman Production, LLC, located in Letart, West Virginia, are the only two remaining producers of manganese ferroalloys for the steel industry in the United States. These companies face intense competition from foreign producers, and the National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production only compound these concerns. 80 Fed. Reg. 37,366 (June 30, 2015) and 82 Fed. Reg. 5401 (Jan. 18, 2017) (on reconsideration). There is no doubt that protecting the public health from hazardous air pollution is critical, but a proper balance should be struck to prevent job losses, let alone the risk of closure to local businesses. Eramet will need to reduce its production and staff by half to comply with the overburdening rulemaking. We ask for your assistance to avoid these losses.

The Ohio company, Eramet, predicts it will eliminate 90 jobs due to this rulemaking. The Company, however, is committed to reconstructing the largest unit of its operation for the sake of environmental compliance. By taking this measure to comply, the Company will save half of its staff and production. Unfortunately, Eramet does not have the resources to update the remaining operational units, so it predicts that the rulemaking will eliminate nearly 90 jobs and the other half of its production. Eramet may never fully recover. The effect of such a loss will extend beyond Eramet and the ferroalloys industry as that industry supports major U.S. steel

companies including U.S. Steel, AK Steel, TimkenSteel, and ArcelorMittal. American steel is vital to our national security, and many of these companies have ties to Ohio and our local economy. Without Eramet's supply, these steel companies will encounter unpredictable costs and their own production risks. Simply put, the harms introduced by this rulemaking are severe and far-reaching.

Eramet and Felman expressed their concerns with the rulemaking at various stages of the public comment process. In 2015, the Agency through its Acting Administrator responded to a letter from Senators Capito, Manchin, Portman, and Brown, and Representatives McKinley, Johnson, Jenkins, and Mooney. In its response, U.S. EPA declined to designate the rulemaking as a "major rule" for purposes of the Congressional Review Act. At that time, the companies also raised concerns with the two-year deadline to achieve full compliance as it was not sufficient time to make the necessary improvements to their operations. The former administration, in the same written response, pledged to consider an extension but never approved one.

Eramet even challenged the 2015 final rule in the D.C. Circuit Court of Appeals. *Eramet Marietta, Inc. v. EPA*, Case No. 15-1296. That appeal is currently stayed after Eramet petitioned U.S. EPA to reconsider the 2015 rule, and the former administration agreed to reevaluate a few provisions. Upon reconsideration, U.S. EPA withdrew its demand that Felman install a new monitoring system, but the final reconsideration rule, published January 18, 2017, imposes all of the other onerous requirements. Significantly, the former administration finalized this rulemaking less than two full days before the official change in the administration. Now that the reconsideration is final, the stay for Eramet's challenge before the D.C. Circuit may be lifted by the parties.

The companies were not the only stakeholders to participate in the public comment process. In 2014, the State of Ohio through its environmental protection agency addressed the rulemaking's projected capital costs, \$25 million for Eramet and \$12.4 million for Felman. The comment letter alerted the former administration to the true risk of plant closure at the hands of this burdensome regulation and foreign competition.

Again in 2016 for the reconsideration of the rulemaking, Ohio EPA exposed the unnecessary expenses associated with quarterly emissions testing and digital-camera monitoring. The monitoring demands, in particular, are troubling because U.S. EPA replaced its tried-and-true method with a more expensive and unproven method. It is unusual and problematic for U.S. EPA to impose any requirement without proper scrutiny. The new method's uncertainties cast doubt as to whether the companies will ultimately achieve environmental compliance, which in turn, discourages the investments necessary to upgrade all of the operational units. To date, there is only one supplier of the digital-camera-monitoring technology, which invites an array of concerns from pricing to quality control. Ohio EPA warned that these requirements may increase operating costs in the highly competitive ferroalloys market without any benefits to the environment or the public health.

The former administration sidestepped these comments and proceeded with a rulemaking that jeopardizes not only the survival of Ohio and West Virginia companies but an American industry and potentially our national security in the ability to make steel in the United States from U.S.

manufacturers. We should not accept the conclusion that protecting the public health on the one hand and ferroalloy jobs on the other are mutually exclusive. I ask you to take necessary action to prevent this loss.

We appreciate your consideration and prompt attention to this critical matter, and look forward to working with you.

Very respectfully yours,

A handwritten signature in blue ink that reads "Mike DeWine". The signature is written in a cursive, flowing style.

Mike DeWine
Ohio Attorney General

cc: The Honorable Sherrod Brown, United States Senate
The Honorable Rob Portman, United States Senate
The Honorable Bill Johnson, United States House of Representatives