

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: SEABEE CORPORATION	ADMINISTRATIVE CONSENT ORDER NO. 2020-AQ- 07
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To: Seabee Corporation
Donald E. Yadon, Registered Agent
602 S Fed Street
Hampton, Iowa 50441

Seabee Corporation
George Winchester, President
712 First Street NW
Hampton, Iowa 50441

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Seabee Corporation (Seabee) for the purpose of resolving air quality violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Julie Duke
Iowa Department of Natural Resources
Air Quality Bureau
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 712-262-9565

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 515-725-9551

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

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II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1), which authorize the director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Seabee is a manufacturing company that produces fluid power cylinders and actuators. The principal activity of the facility is chrome plating of steel rods for the manufacture of hydraulic cylinders. Until the issuance of twenty-two air quality construction permits on May 11, 2020, the facility was a Title V facility and was classified as major for Particulate Matter (PM₁₀). Title V Operating Permit No. 99-TV-046R2 was issued to Seabee on October 12, 2014, with an expiration date of October 12, 2019, and a permit renewal application deadline of April 12, 2019.

2. Administrative Consent Order No. 2019-AQ-08 was agreed upon by Seabee and DNR and signed by DNR's director on February 21, 2019. The order addressed air quality violations and required Seabee to do the following:

- Submit a corrected 2017 Title V Emissions Inventory by March 8, 2019, or pay a stipulated penalty of \$500.00 for every 30 days until the corrected emissions inventory is received by DNR; and
- Submit a corrective action plan to DNR by March 24, 2019, explaining how Seabee would ensure compliance with permit deadlines in the future and listing the staff responsible for compliance.

Administrative Consent Order No. 2019-AQ-08 also stated that "Seabee shall at all times in the future comply with all requirements of its TV permit and applicable Iowa air quality regulations, including all deadlines." Seabee did submit a corrected 2017 Title V Emissions Inventory, along with the payment of stipulated penalties. Seabee did submit a corrective action plan.

3. On June 27, 2018, DNR sent a letter to Seabee, requesting that a Title V permit application be submitted to DNR prior to the April 12, 2019, permit renewal application deadline contained in Title V Operating Permit No. 99-TV-046R2 and required by the provisions of 567 IAC section 22.105"a"(4). The letter

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also reminded Seabee that Title V Operating Permit No. 99-TV-046R2 would expire on October 12, 2019.

4. Seabee failed to submit a Title V permit renewal application by the April 12, 2019, deadline contained in Title V Operating Permit No. 99-TV-046R2 and required by the provisions of 567 IAC section 22.105"a"(4).

5. On April 29, 2019, DNR personnel visited the Seabee facility and discussed the compliance status of the facility and options for the facility to either submit a Title V Operating Permit application or submit air quality construction permit applications that would limit the facility's emissions so that a Title V permit would not be required for the facility. On April 30, 2019, DNR sent two follow-up emails to Seabee, containing the following information:

- A list of construction permits that would need to be issued to limit the Seabee facility's PTE below Title V thresholds; and
- A list of the compliance issues at the facility, including the requirement to submit a Title V permit renewal application.

6. A May 3, 2019, Notice of Violation letter (NOV) was sent to Seabee for failure to submit a Title V permit renewal application by the April 12, 2019, deadline. The letter explained that 567 IAC section 22.105"a"(4) requires that a Title V permit renewal application be submitted to DNR not later than six months prior to the Title V permit's expiration date. The April 2019 NOV required the facility to provide by May 19, 2019, a compliance plan that would include:

- a date by which the Title V application would be submitted or when construction permit applications would be submitted, if Seabee intended to limit the Potential to Emit below Title V thresholds, and
- what efforts Seabee would take to ensure questions were answered and any additional information needed was received in a prompt manner to aid in a timely permit issuance.

The compliance plan was not timely submitted.

7. On August 8, 2019, DNR environmental specialist Julie Duke spoke with a consultant who was hired by Seabee to manage its air quality compliance issues. Ms. Duke provided the consultant with copies of the May 3, 2019, NOV and Administrative Consent Order No. 2019-AQ-08.

8. On August 19, 2019, Ms. Duke sent Seabee's consultant an email, reminding him that if a TV permit or construction permits to limit the facility out of the Title V program were not issued by October 12, 2019, then Seabee would be in violation of 567 IAC section 22.116(2). Seabee would be in violation of the requirement to have a Title V permit.

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9. On September 13, 2019, DNR received construction permit applications from Seabee, with Seabee's stated intention to limit the facility below Title V thresholds. The permit applications are contained in DNR Air Quality Construction Permit Project No. 19-310.

10. DNR sent an October 21, 2019, NOV to Seabee, stating that Seabee had failed to submit a Title V permit renewal application prior to the expiration of Seabee's Title V permit; and stating that Seabee had failed to submit the compliance plan required by the May 3, 2019 NOV. The NOV specified that Seabee would be in violation of 567 IAC rule 22.116 until Seabee was issued a Title V permit or until Seabee received air quality construction permits from DNR to limit emissions below the Title V thresholds.

11. On October 28, 2019, DNR received a compliance plan from Seabee in response to the DNR NOV dated May 3, 2019. The compliance plan was required to have been submitted by no later than May 10, 2019. DNR sent a November 15, 2019, letter to Seabee, acknowledging receipt of the compliance plan.

12. Twenty-two construction permits were issued to Seabee on May 11, 2020, in response to the construction permit applications submitted by Seabee as part of Construction Permit Project No. 19-310. These permits limit Seabee's potential to emit below Title V thresholds. Therefore, Seabee is no longer required to submit a Title V permit application to DNR.

13. Seabee submitted its Title V emissions inventory for 2019 on July 1, 2020. Seabee will have to submit Title V fees to DNR for the year 2019. Additionally, due to its Title V status from January 1, 2020, through the issuance of the construction permits on May 11, 2020, Seabee will be required to submit a Title V emissions inventory for 2020 and to pay Title V fees for the portion of the year 2020 prior to May 11, 2020.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. 567 IAC 22.105(1)"a"(4) requires that each owner or operator of a stationary source with a Title V permit to submit a renewal application for a permit renewal at least six months prior to the date of permit expiration. Until the issuance of Construction Permit Project No. 19-310 permits on May 11, 2020,

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Seabee was subject to the Title V program, and failed to submit a Title V permit renewal application as required.

3. 567 IAC 22.104 states that sources required to have a Title V permit must comply with the following:

No source may operate after the time that it is required to submit a timely and complete application, except in compliance with a properly issued Title V operating permit. However, if a source submits a timely and complete application for permit issuance (including renewal), the source's failure to have a permit is not a violation of this chapter until the director takes final action on the permit application, except as noted in this rule. In that case, all terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

Seabee operated without a required Title V permit from October 12, 2019, the expiration of Title V Operating Permit No. 99-TV-046R2, until the issuance of the air quality construction permits in Project No. 19-310 on May 11, 2020.

4. 567 IAC 22.116(2) states that "[e]xcept as provided in rule 567-22.104(455B), permit expiration terminates a source's right to operate unless a timely and complete application for renewal has been submitted in accordance with rule 567-22.105(455B)." Seabee continued to operate following the termination of Title V Operating Permit No. 99-TV-046R2.

5. Seabee also has failed to comply with the provisions of Administrative Consent Order 2019-AQ-08, requiring that "Seabee shall at all times in the future comply with all requirements of its Title V permit and applicable Iowa air quality regulations, including all deadlines." Seabee submitted its Title V emissions inventory for 2019 on July 1, 2020, but has failed to submit to DNR its Title V fees for 2019, as required by 567 IAC Chapter 30.

V. ORDER

THEREFORE, DNR orders and Seabee agrees to the following:

1. Within 30 days of the date this order is signed by the Director, Seabee shall submit to DNR its Title V fees for 2019; and

2. Seabee shall timely submit its 2020 Title V Emissions Inventory and fees for the portion of 2020 during which it maintained Title V status, in compliance with 567 IAC 22.106 and 567 IAC Chapter 30; and

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3. Within 30 days of the date this order is signed by the director, Seabee shall pay a penalty of \$10,000.00.

VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the director to assess administrative penalties, a penalty of \$10,000.00 is assessed by this administrative consent order. The penalty must be paid within 30 days of the date this order is signed by the director. The administrative penalty is determined as follows:

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty. The administrative penalty assessed by this administrative consent order is determined as follows:

Economic Benefit – 567 IAC Chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.2(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.”

Seabee received economic benefit by saving employee hours required to comply with the requirement to timely submit a Title V application. Seabee has avoided costs generally associated with Title V application submittal. Seabee also has avoided the required Title V program renewal fees. DNR estimates that Seabee has received an economic benefit of at least \$3,000.00. Therefore, \$3,000.00 is assessed for this factor.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil

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penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter.

Since Seabee allowed its Title V Operating Permit to expire and failed to comply with Title V reporting requirements, it is unknown what harm the facility caused to the environment prior to the issuance of Construction Permit Project No. 19-310 permits on May 11, 2020. In addition, failing to maintain its Title V permit forced DNR to spend additional time and resources in an effort to obtain the required information and permit applications. Pursuant to the provisions of 567 IAC 22.116(2), Seabee's right to operate under the Title V Program terminated on October 12, 2019, with the expiration of its Title V permit. Seabee continued operations and, therefore, threatened the integrity of the State of Iowa's Title V Operating Permit program. For these reasons \$3,000.00 is assessed for this factor.

Culpability – DNR provided Seabee with written reminders of its obligations to comply with the law. DNR visited the facility to discuss the facility's concerns, and provided the facility with specific information regarding how to comply with the law. Seabee failed to take action to either apply for air quality construction permits in a timely manner or to submit a Title V permit renewal application in a timely manner. For these reasons, \$3,000.00 is assessed for culpability.

Aggravating Factor - Seabee agreed to the terms of Administrative Consent Order No. 2019-AQ-08 in February 2019. The consent order required that "Seabee shall at all times in the future comply with all requirements of its TV permit and applicable Iowa air quality regulations, including all deadlines." DNR sent a letter to Seabee in April 2019, reminding Seabee to timely submit a Title V permit renewal application. When Seabee failed to comply with the requirement to timely submit a Title V permit renewal application, Seabee failed to comply with the requirements of Administrative Consent Order No. 2019-AQ-08. Therefore, \$1,000.00 is assessed for Seabee's disregard of the administrative consent order.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Seabee. For that reason, Seabee waives its right to appeal this administrative consent order or any part thereof.

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VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.



Kayla Lyon, Director
Iowa Department of Natural Resources

Dated this 3rd day of
August, 2020.



Seabee Corporation

Dated this 30th day of
July, 2020.

AQB Facility # 35-01-008, Field Office 2, Anne Preziosi, VII.B.2