

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: CDI, LLC	ADMINISTRATIVE CONSENT ORDER NO. 2024-AQ- 03
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TO: Jason Chodorowski
General Manager and Responsible Official
715 E Corporate Drive
Charles City, Iowa 50616

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and CDI, LLC (CDI) for the purpose of resolving air quality violations at the CDI plant in Forest City, Iowa. 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
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 515-669-8474

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: 515-238-3429

Payment of penalty to:

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

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

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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. CDI has a facility located in Forest City, Iowa, that paints motor homes for Winnebago Industries vehicles and other vehicles (buses, race vehicles/trailers and boats). CDI began operating at this location on September 27, 2002. CDI is a Title V Major Source for Volatile Organic Compounds and Total Hazardous Air Pollutants.

2. DNR issued the facility's current Title V Operating Permit No. 06-TV-004R3 on August 8, 2022, with an expiration date of August 7, 2028. Title V Operating Permit No. 06-TV-004R2 was issued on September 1, 2017, and expired on August 7, 2022. The facility was issued an initial Title V Operating Permit No. 06-TV-004 on August 18, 2006.

3. CDI has several violations of Title V Operating Permit No. 06-TV-004R3 and Title V Operating Permit No. 06-TV-004R2. First, CDI failed to timely submit Annual Compliance Certifications by March 31 for calendar years 2020 (due March 31, 2021) and 2021 (due March 31, 2022), as required by 567 IAC 22.108(15)"e", and Title V Permit No. 06-TV-004R2, General Condition G4. The Annual Compliance Certifications were submitted on April 22, 2021, and May 19, 2022. 567 IAC 22.108(15)"e"(1) states that "[A]ll Title V permits shall contain ... [r]equirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following: The frequency of submissions of compliance certifications, which shall not be less than annually...." NOV letters dated May 4, 2021, and May 16, 2022, were sent to CDI for these violations.

4. Second, CDI failed to submit Title V Emission Inventory Fees by July 1 for calendar year 2021 (due July 1, 2022), as required by 567 IAC section 30.4 and Title V Permit 06-TV-004R2, General Condition G6.1. The fees were submitted on July 21, 2022. 567 IAC 30.4(2), "*Payment of Title V annual emissions fee*", states:

"a. Fee required. Any person required to obtain a Title V permit shall pay an annual fee based on the first 4,000 tons of each regulated air pollutant, beginning on November 15, 1994. Beginning on July 1, 1996, Title V operating permit fees shall be paid on or before July 1 of each year...

b. Fee and documentation due dates. The fee shall be submitted annually by July 1 with forms specified by the department."

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An August 15, 2022, NOV was sent regarding this violation.

5. Third, CDI failed to timely submit Title V Emissions Inventory information to DNR by March 31 for calendar years 2020 (due March 31, 2021) and 2022 (due March 31, 2023), as required by 567 IAC 22.106(2) and Title V Operating Permit Nos. 06-TV-004R2 and 06-TV-004R3, General Condition G6.3. NOV letters dated April 16, 2021, and April 20, 2023, were sent to CDI regarding these violations. The emission inventories were submitted, respectively, on April 1, 2021, and May 4, 2023. 567 IAC 22.106(2), "*Emissions inventory and documentation due dates*", requires that "[t]he emissions inventory shall be submitted through the electronic format specified by the department. An owner or operator shall, by March 31, submit documentation of actual emissions for the previous calendar year."

Past Enforcement History

6. CDI has a history of air quality violations at its Forest City facility. The following table summarizes those violations.

Date	Description of Action Taken
May 21, 2003	NOV for failure to timely submit a TV operating permit application
November 26, 2003	NOV for exceedance of the total HAP limit and for operating permit condition violations
April 21, 2004	NOV for exceeding synthetic minor source status limits. The facility had exceeded the TV threshold for Total HAPs
May 5, 2004	Letter advising CDI of late submittal of its TV Emissions Inventory
July 21, 2004	NOV for late submission of TV Fees
November 3, 2004	NOV for emission limit violations and for construction without a permit
December 27, 2004	DNR and CDI entered into Administrative Consent Order No 2004-AQ-68 on December 27, 2004, for CDI's failure to comply with HAP emission reduction requirements
January 7, 2005	EPA issued letter to CDI on January 7, 2005, citing violation of DNR Air Quality Construction Permit Nos. 02-A-479-P through 02-A-488-P, and 02-A-720-P. The EPA letter also cited CDI for violating the requirement to contain construction permits contained in 567 IAC 22.1
August 15, 2006	NOV for late submission of Title V Fees for emission year 2005, in violation of 567 IAC 22.106

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May 7, 2007	NOV for late submission of the Title V Emissions Inventory for the year 2006
January 27, 2010	NOV for a failed PM/PM10 stack test
July 20, 2012	Letter of Noncompliance (LNC) for late filing of Title V fees for emission year 2011, in violation of 567 IAC 22.106
December 9, 2014	NOV for a failed PM stack test
September 15, 2015	NOV for failed PM stack testing
July 25, 2017	NOV for late submission of Title V Fees for emission year 2016, in violation of 567 IAC 22.106
November 15, 2019	LNC when a site inspection identified recordkeeping violations

7. Additionally, on May 30, 2006, the Iowa Attorney General's Office entered into a Consent Decree with CDI for as-built violations that occurred at CDI's Charles City and Forest City facilities. The Forest City facility was found in violation for commencing installation and operation of eight emission points prior to obtaining the necessary air construction permits. A penalty of \$141,200.00 was paid pursuant to this Consent Decree.

III. 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. According to the provisions of 567 IAC 22.101(1) provides that any person who owns or operates a major source shall obtain a Title V operating permit and shall submit fees as required in 567 IAC Chapter 30. The CDI, LLC, facility in Forest City, Iowa, is a major source, as stated above. Therefore, DNR issued the facility's current Title V Operating Permit No. 06-TV-004R3 on August 8, 2022; and the preceding Title V Operating Permit No. 06-TV-004R2, on September 1, 2017.

3. 567 IAC 22.108(15)"e"(1) states that "[A]ll Title V permits shall contain ... [r]equirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following: ... (2) The frequency of submissions of compliance certifications, which shall not be less than annually...." As stated above, CDI failed to timely submit Annual Compliance Certifications for calendar years 2020 and 2021.

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4. 567 IAC 30.4(2), "*Payment of Title V annual emissions fee*", states: "a. Fee required. Any person required to obtain a Title V permit shall pay an annual fee based on the first 4,000 tons of each regulated air pollutant, beginning on November 15, 1994. Beginning on July 1, 1996, Title V operating permit fees shall be paid on or before July 1 of each year... b. Fee and documentation due dates. The fee shall be submitted annually by July 1 with forms specified by the department." As stated above, CDI failed to submit Title V Emission Inventory Fees by July 1 for calendar year 2021.

5. 567 IAC 22.106(2), "*Emissions inventory and documentation due dates*", requires that "[t]he emissions inventory shall be submitted through the electronic format specified by the department. An owner or operator shall, by March 31, submit documentation of actual emissions for the previous calendar year." As stated above, CDI failed to timely submit Title V Emissions Inventory information to DNR by March 31 for calendar years 2020 and 2022.

V. ORDER

THEREFORE, DNR orders and CDI agrees to the following:

1. Within 30 days of this order the Responsible Official and TV Operating Permit Contact for the CDI Forest City facility shall review the Title V Operating Permit General Conditions and develop a Standard Operating Procedure (SOP) to ensure future compliance with TV Operating Permit General Conditions G4, "*Annual Compliance Certification*"; and G6, "*Annual Fee*". A copy of the SOP shall be provided to DNR within 45 days of the date this Administrative Consent Order is signed by the director; and

2. CDI shall submit all future Annual Compliance Certification reports, Title V emission Inventories, Title V Emission Fees, and Title V Renewal Applications for its Forest City facility by the required due dates unless another deadline is agreed to in writing with DNR prior to the applicable deadline passing; and

3. Within 30 days of the date this order is signed by the director, CDI shall pay a penalty of \$5,600.00.

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 \$5,600.00 is assessed by this administrative consent order. The penalty

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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 order is determined as follows:

Economic Benefit – 567 IAC chapter 10 requires that 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, DNR 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.”

It is unlikely that CDI gained significant economic benefit by failing to comply with violations outlined in this order.

Therefore, no amount 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 penalties are authorized by statute. Despite the high penalties authorized, DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter.

The Title V program was created as part of the Federal Clean Air Act Amendments in 1990 and ensures larger industries comply with air quality requirements that protect the health, safety, and economic opportunities. Failure to comply with the General Conditions of the Title V program threatens the integrity of the regulatory program. CDI has repeatedly failed to submit Annual Compliance Certifications, Title V Emissions Inventory, and Title V Fee payments.

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It is important that Title V facilities submit their emission inventories no later than March 31. DNR must calculate the statewide Title V emissions, and provide this information to the public by April 30 of each year. Additionally, DNR relies on timely emissions inventories to set the Title V fees. These fees are required to administer the air programs required under the Clean Air Act. Each year, the Iowa Environmental Protection Commission must set the fees no later than the May commission meeting.

It is essential that Title V facilities submit fees no later than July 1. These fees are required to administer the air programs required under the Clean Air Act. DNR's annual budget is contingent upon all Title V facilities submitting the correct fees by July 1. When these fees are not submitted on time, the Air Quality Bureau's ability to operate its programs is compromised.

All facilities with a final Title V Operating Permit must submit an Annual Compliance Certification by March 31 of each year. These reports are the basic, minimum reporting requirements under Iowa's Title V Operating Permit program. The reports allow industry, citizens, and regulatory agencies to be informed when a facility fails to meet Title V permit conditions, and what action is being taken to correct these problems.

For the reasons stated above, \$2,300.00 is assessed for this factor.

Culpability – All Title V facilities are subject to the General Requirements of the Title V Permit Program. CDI has a responsibility to remain knowledgeable and comply with Title V Program requirements. Submission of Annual Compliance Certifications, Title V Emissions Inventories, and TV Fee payments are yearly requirements with set compliance dates.

Additionally, DNR issues list serve notices advising facilities of upcoming Title V requirements for Annual Compliance Certifications, Title V Emissions Inventory, and TV Fee Payments. CDI has consistently failed to meet the General Requirements of the Title V program.

For the reasons stated above, \$2,300.00 is assessed for this factor.

Aggravating Factor - CDI was advised that fee payment by the July 1 due date was essential to the TV Program in the NOV issued July 25, 2017, and the facility failed to timely submit its fee payment timely again in 2022.

CDI was advised of the importance of submitting Emissions Inventory no later than March 31 in the NOV issued April 16, 2021, and the facility failed to timely submit its Emissions Inventory again in 2023.

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CDI was advised of the requirement under Iowa's Operating Permit Program to submit Annual Compliance Certifications no later than March 31 in the NOV issued May 4, 2021, and the facility failed to timely submit its Annual Compliance Certification again in 2022.

For the reasons stated above, \$1,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

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

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



CDI, LLC

Julie Duke, DNR Air Quality Bureau

Dated this 23rd day of
JANUARY, 2024.