

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:  CDI, LLC	ADMINISTRATIVE CONSENT ORDER  NO. 2024-AQ- 04
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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 Charles 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 Charles City, Iowa, that paints motor homes for Winnebago Industries vehicles and other vehicles (buses, race vehicles/trailers and boats). CDI is a Title V Major Source for Volatile Organic Compounds, Individual Hazardous Air Pollutants, and Total Hazardous Air Pollutants.

2. DNR issued the facility's current Title V Operating Permit No. 14-TV-012R1 on May 20, 2019, and it will expire on May 19, 2024.

3. CDI has several violations of and in connection with Title V Operating Permit No. 14-TV-012R1. First, CDI failed to timely submit a Title V Operating Permit renewal application by the March 1, 2019, due date, as required by Title V Permit No. 14-TV-012, General Condition G2; and 567 Iowa Administrative Code section (IAC) 22.105. Title V Permit No. 14-TV-012 expired on September 1, 2019. According to the provisions of 567 IAC section 22.105(1)"a"(4), "*Renewal application*", the owner or operator of a stationary source with a Title V permit shall submit an application to DNR for a permit renewal at least 6 months prior to, but not more than 18 months prior to, the date of permit expiration.

4. On April 4, 2018, a certified letter was sent to the facility reminding it of the upcoming Title V permit renewal application due date. A March 8, 2019, Notice of Violation letter (NOV) was issued by DNR for failure to timely submit the required Title V permit application. During a phone conversation with DNR on March 8, 2019, the facility acknowledged that the Title V permit application was not submitted as required and advised that the DNR Air Quality Bureau would receive the Title V permit application by March 15, 2019. The application was submitted on March 13, 2019.

5. Second, 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. 14-TV-012R1, 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

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not be less than annually....” NOV letters dated May 4, 2021, and May 16, 2022, were sent to CDI for these violations.

6. Third, 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 14-TV-012R1, 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.”

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

7. Fourth, 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 14-TV-012R1, 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 13, 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**

8. CDI has a history of violations at its Charles City facility. DNR issued a NOV on January 31, 2005, to CDI for failure to obtain air quality construction permits timely, in violation of 567 Iowa Administrative Code section 22.1(1).

9. On May 30, 2005, 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 Charles City facility was found in violation for commencing installation and operation of five emission points prior to obtaining the necessary air construction permits. A penalty of \$141,200.00 was paid pursuant to this Consent Decree.

10. An August 15, 2006, NOV was issued to CDI for its Charles City facility for late Title V fees for emission year 2005, in violation of 567 IAC 22.106.

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11. DNR issued Title V Operating Permit No. 14-TV-012 to CDI for its Charles City facility on August 18, 2006. DNR issued an NOV for late TV fees to CDI for its Charles City facility on August 15, 2006.

12. A May 7, 2007, NOV was issued to CDI for its Charles City facility for late Title V Emissions Inventory for the year 2006.

13. Air quality construction permits for the facility were rescinded on March 3, 2011. At that time, the facility no longer had major source status. However, the facility again became a Title V major source on October 8, 2012, when the facility resumed operations. A May 14, 2013, NOV was issued to CDI for its Charles City facility for failure to timely obtain air quality construction permits prior to resuming operations, in violation of 567 IAC 22.1(1). The facility also entered into Administrative Consent Order 2013-AQ-26 on September 25, 2013, for failure to obtain air quality construction permits prior to resuming operations. Air quality construction permits for the as-built emission points were issued on April 24, 2014.

14. A July 25, 2017, NOV was issued for failure to timely submit 2016 Title V fees.

15. A May 16, 2022, NOV was issued for recordkeeping and stack test violations identified during a facility inspection.

### 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), 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 Charles City, Iowa, is a major source, as stated above. Therefore, DNR issued the facility's current Title V Operating Permit No. 14-TV-012R1 on May 20, 2019.

3. According to the provisions of 567 IAC section 22.105(1)"a"(4), *Renewal application*," the owner or operator of a stationary source with a Title V permit shall submit an application to DNR for a permit renewal at least 6 months prior to, but not more than 18 months prior to, the date of permit expiration. As stated above, CDI failed to timely submit a Title V Operating Permit renewal application.

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4. 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.

5. 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.

6. 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 Charles 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 G2, "*Permit Expiration*"; 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 Charles 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.

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**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 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 a 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

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protect the health, safety, and economic opportunities. Failure to comply with the General Conditions of the Title V program and the Iowa Administrative Code threatens the integrity of the regulatory program. Title V facilities have a duty to submit a timely Title V renewal application to allow for public participation and affected State and EPA review. In addition to not submitting a timely TV renewal application, CDI repeatedly failed to submit Annual Compliance Certifications, Title V Emissions Inventory, and Title V Fee payments.

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. CDI has repeatedly failed to submit Annual Compliance Certifications, Title V Emissions Inventory, and TV Fee payment which 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. Title V Operating Permits expire five years after permit issuance. The Title V renewal deadline is published on the current Title V Permit cover page. CDI was also sent a certified letter on April 4, 2018, advising of the upcoming renewal application due date. CDI has consistently failed to meet the General Requirements of the Title V program.

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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.

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.

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Kayla Lyon, Director  
Iowa Department of Natural Resources

  
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CDI, LLC

Julie Duke, DNR Air Quality Bureau

Dated this 24<sup>th</sup> day of  
JANUARY, 2024.