

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: Specialty Sales, Incorporated, aka Specialty Enterprises	ADMINISTRATIVE CONSENT ORDER NO. 2024-AQ-05
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To: Specialty Sales, Incorporated, aka
Specialty Enterprises
John S. Mahler
Owner and Registered Agent
2225 Estella
Perry, Iowa 50220

Specialty Sales, Incorporated, aka
Specialty Enterprises
John Mahler
Fran Williams
245 NW 52nd Avenue
Des Moines, Iowa 50313

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Specialty Sale, Incorporated, aka Specialty Enterprises (Specialty Enterprises) 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:

Lucas Tenborg
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 515-443-9508

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

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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. Specialty Enterprises is a furniture and upholstery repair company located in Perry, Iowa. According to the company's website, it offers a variety of services relating to antique restoration and custom furniture. The company is a family owned and operated business since 1970. Specialty Enterprises is a minor source of emissions to the outside atmosphere. Each minor source of emissions is required to submit a minor source emissions inventory (MSEI) once every three years. The State of Iowa is split into thirds (eastern, central, and western). Specialty Enterprises failed to submit its MSEI in a timely manner, as required by 567 IAC 21.1(3).

2. On January 10, 2023, DNR sent a letter to Specialty Enterprises, stating that DNR was conducting a minor source emissions inventory for the central portion of Iowa, in which Specialty Enterprises is located, and that submittal of a MSEI for 2022 was required to be submitted to DNR by May 15, 2023.

3. On April 15, 2023, DNR sent a postcard reminding Specialty Enterprises of the upcoming May 15, 2023 due date for the 2022 MSEI.

4. Specialty Enterprises failed to submit its 2022 MSEI by the due date of May 15, 2023.

5. On May 23, 2023, DNR issued a Letter of Non-Compliance to Specialty Enterprises, requiring that the MSEI be submitted by June 30, 2023.

6. On June 23, 2023, the Iowa Air Emissions Assistance Program (IAEAP) contacted Specialty Enterprises to offer its assistance in completing the MSEI. Specialty Enterprises personnel stated they were gathering records.

7. Specialty Enterprises failed to submit the 2022 MSEI by second due date of June 30, 2023.

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8. On July 19, 2023, DNR issued a Notice of Violation letter, requiring that the MSEI be submitted by August 9, 2023. On July 20, 2023, DNR telephoned Specialty Enterprises and left a voicemail requesting a return call.

9. Specialty Enterprises failed to submit the 2022 MSEI by the third due date of August 9, 2023.

10. On August 17, 2023, DNR contacted the Polk County local Air Quality Program for assistance following up with facility.

11. On August 22, 2023, Specialty Enterprises contacted DNR and requested an additional extension for MSEI submittal until September 15, 2023.

12. The 2022 MSEI was received by DNR on November 21, 2023.

13. Specialty Enterprises has a history of failing to timely submit its MSEI. DNR sent a June 1, 2011, letter to Specialty Enterprises due to failure to timely submit its 2010 MSEI. Also, DNR sent a July 3, 2014, Letter of Noncompliance to Specialty Enterprises for failure to timely submit its 2013 MSEI.

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 Iowa Administrative Code (IAC) 21.1(3) requires that, for all new and existing equipment and control equipment as defined in the rules, the person responsible for the equipment shall provide to the DNR director information on fuel use, materials processed, air contaminants emitted, estimated rate of emissions, periods of emissions or other air pollution information to the director upon the director's written request. This information is for use in compiling and maintaining an emissions inventory for evaluation of the air pollution situation in the state and its various parts.

3. An emission inventory is a listing, by source, of the amounts of pollutants actually discharged over a period of time, usually annually. Facilities not subject to the Title V Operating Permit Program are required to submit minor source emissions inventories once every three years. Specialty Enterprises is a minor source, and was required by the director to submit a minor source emissions inventory (MSEI) accounting for its 2022 emissions. Specialty Enterprises has failed to submit its 2022 MSEI timely, as required.

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V. ORDER

THEREFORE, DNR orders and Specialty Enterprises agrees to the following:

1. In the future, Specialty Enterprises shall submit MSEI documents timely;
2. Within 60 days of the date this order is signed by the director, Specialty Enterprises shall pay a penalty of \$1,500.00.

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 \$1,500.00 is assessed by this administrative consent order, in addition to the stipulated penalties specified above. The penalty shall be paid within 60 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.”

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Specialty Enterprises has received little or no economic benefit for failure to comply with the due dates for submitting the MSEI.

For these reasons, no amount is assessed for economic benefit.

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.

No actual or threatened harm to the environment resulted from Specialty Enterprises failure to submit the MSEI. However, failing to submit the MSEI in a timely manner does prevent the DNR, as well as the public, from promptly being informed of the facility's compliance status with regard to Iowa's air quality law. In addition, each week that Specialty Enterprises fails to submit the MSEI further harms DNR's ability to accurately inventory minor source pollutants.

Specialty Enterprises' failure to submit the MSEI in a timely manner has forced DNR to spend additional time and resources in an effort to obtain the required report. Thus, this violation threatens the integrity of the DNR's air program.

For this reason, \$500.00 is assessed for gravity.

Culpability –DNR sent reminder letters, and provided Specialty Enterprises with three deadlines to fulfill the requirement to submit its 2022 MSEI. The 2022 MSEI was received by DNR on November 21, 2023. Other facilities in the same region as Specialty Enterprises submitted their MSEI by the May 15, 2023, deadline. In addition, Specialty Enterprises has been sent two letters from DNR in the past for failure to timely submit MSEI information in 2010 and 2013. Specialty Enterprises thus displays a certain degree of negligence in this case.

For this reason, \$1,000.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Specialty Enterprises. For that reason, Specialty Enterprises waives its right to appeal this 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



Specialty Sales, Incorporated, aka
Specialty Enterprises

Dated this 1st day of
February, 202~~4~~

DNR Air Quality Bureau; DNR Field Office 5; Anne Preziosi