

**STATE OF TENNESSEE
AIR POLLUTION CONTROL BOARD**

IN THE MATTER OF:)	DIVISION OF AIR POLLUTION CONTROL
)	
)	
ASSURANCE OPERATIONS CORPORATION DBA AOC METAL WORKS,)	
)	
)	
RESPONDENT.)	CASE NO. APC22-0090

TECHNICAL SECRETARY'S ORDER AND ASSESSMENT OF CIVIL PENALTY

Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, states:

PARTIES

I.

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board ("Board") and Director of the Division of Air Pollution Control ("Division"), Department of Environment and Conservation ("Department").

II.

Assurance Operations Corporation dba AOC Metal Works ("Respondent") is a domestic corporation authorized to do business in the State of Tennessee. The Respondent's facility address is 2005 Liberty Avenue Lawrenceburg, Tennessee 38464-4604. The Respondent's registered agent for service of process is Corporation Service Company, 2908 Poston Avenue, Nashville, Tennessee 37203-1312

AUTHORITY

III.

The Technical Secretary may assess a civil penalty of up to \$25,000.00 per day for each day of violation of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121 ("Act"), or Tennessee Air Pollution Control Regulations, Tenn. Comp. R. & Regs. 1200-03-01 to -36; 0400-30-01 to -39, ("Rules"). Tenn. Code Ann. § 68-201-116. The Technical Secretary may issue

an order for correction to the responsible person when provisions of the Act or Rules are violated, and such person may be liable for resulting damages to the State. *Id.*

IV.

The Respondent is a “person,” Tenn. Code Ann. § 68-201-102(7), and has violated the Act and Rules.

V.

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof. Tenn. Code Ann. § 68-201-102(1).

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Tenn. Code Ann. § 68-201-102(2). The Respondent operates an air contaminant source.

FACTS

VII.

On June 1, 2015, the Technical Secretary issued True Minor Operating Permit 069811P (“Permit 069811P”), (facility 50-0072), to the Respondent for a metal fabrication operation.

VIII.

Condition 12(2) of Permit 069811P states:

Unless the Technical Secretary has approved or agreed to a different schedule for submission of reports under 40 CFR §63.10(a), you must prepare and submit each annual certification and compliance report according to the dates specified in paragraphs (2)(i) through (iii) of this condition. Note that the information reported for each of the months in the reporting period will be based on the last 12 months of data prior to the date of each monthly calculation. Permit No. 069811P page 5 of 6 CN-0827 (Rev. 2-13) RDA-1298

- (i) The first annual certification and compliance report must cover the first annual reporting period which began the day after the compliance date (July 25, 2011) and ended on December 31, 2011.

- (ii) Each subsequent annual certification and compliance report must cover the subsequent semiannual reporting period from January 1 through December 31.
- (iii) Each annual certification and compliance report must be prepared and submitted no later than January 31 and kept in a readily accessible location for inspector review. If an exceedance has occurred during the year, each annual certification and compliance report must be submitted along with the exceedance reports, and postmarked or delivered no later than January 31.

IX.

The Respondent failed to submit an annual National Emissions Standards for Hazardous Air Pollutants 40 CFR Part 63, subpart XXXXXX report (“Report”) for 2021 to the Division by January 31, 2022. Therefore, Respondent violated Condition 12(2) of Permit 069811P.

X.

On April 14, 2022, the Division issued a Notice of Violation to the Respondent for the violation discussed in paragraph **IX**.

XI.

On April 26, 2022, the Division received the Respondent’s Report.

VIOLATIONS

XII.

By failing to comply with condition 12(2) of Permit 069811P, the Respondent violated Division Rule 1200-03-09-.02(6), which states, in pertinent part:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act. . . .

ORDER AND ASSESSMENT OF CIVIL PENALTY

XIII.

The Respondent is assessed a civil penalty of \$1,500.00 for violation of the Act and Rules, to be paid to the Department at the following address:

Division of Fiscal Services - Consolidated Fees Section
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 10th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

The civil penalty shall be delivered to the Department on or before the thirty-first day after receipt of this Order and Assessment of Civil Penalty. The case number, APC22-0090, should be clearly written on all correspondence.

RESERVATION OF RIGHTS

In issuing this Order and Assessment of Civil Penalty, the Department does not implicitly or expressly waive any provision of the Act or Rules promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action.

NOTICE OF RIGHTS

The Respondent may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b). To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Technical Secretary within 30 days of the date the Respondent received this Order and Assessment or this Order and Assessment becomes final. Any petition for review must be directed to:

Commissioner of the Department of Environment and Conservation
c/o Jenny L. Howard, General Counsel
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 2nd Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Judge as a contested case hearing. Tenn. Code Ann. § 68-201-108(a); Tenn. Code Ann. § 4-5-301

to -325; Tenn. Comp. R. & Regs. 1360-04-01. Such hearings are legal proceedings in the nature of a trial. Individual respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial respondents (*e.g.*, corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

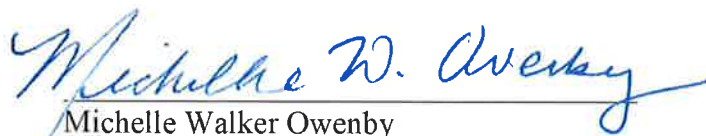
At the conclusion of any initial hearing, the Administrative Judge has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The Administrative Judge, on behalf of the Board, has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing, and the hourly fees incurred due to the presence of the Administrative Judge and a court reporter.

Technical questions and other correspondence involving compliance issues should be sent to:

Kevin McLain, Division of Air Pollution Control
Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 15th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

Attorneys should contact the undersigned counsel of record. The case number, APC22-0090, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Air Pollution Control Board, Department of Environment and Conservation, on November 1, 2022.



Michelle Walker Owenby
Technical Secretary
Air Pollution Control Board

Reviewed by:

Michael D. Lewis

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