

Air Enforcement: Tennessee Air Pollution Control Board and Sherwood Mining Facility Enter into Settlement Agreement



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The Tennessee Air Pollution Control Board (“Board”) and Sherwood Mining Company, LLC (“SMC”) entered into a May 11th Settlement Agreement and Amended Order (“Agreement”) addressing an alleged violation of the Tennessee air regulations.

The Agreement provides that SMC operates a mining facility in Sherwood, Tennessee.

The Division of Air Pollution Control (“Division”) of the Board is stated to have received a construction permit application from SMC on or about July 20, 2018. The application is stated to relate to a rock crushing (fine grinding) operation which included transportation, drying, and screening operations at SMC’s facility. Further, the application is stated to have indicated the construction of this air contaminant source began in May, 2018.

Division personnel are stated to have conducted a site visit on August 22, 2018, to verify construction of the referenced air contaminant source had begun as indicated on SMC’s construction permit application. SMC was determined to have begun construction prior to receiving a construction permit.

A Notice of Violation was subsequently issued to SMC in regards to the alleged violation on October 2, 2018.

On October 30, 2018, the Technical Secretary issued SMC Construction Permit No. 974476.

The Agreement provides that by constructing an air contaminant source not specifically exempted by Tenn. Comp. R. & Regs. 1200-03-09-.04 without first receiving the necessary construction permit, SMC has violated Tenn. Comp. R. & Regs. 1200-03-09-.01(1)(a).

SMC is stated to have sought review of the assessment of the civil penalty based on its good faith misunderstanding that its actions prior to August 22, 2018, did not constitute a violation since equipment being installed was not operable and the construction was commenced but not completed.

The Division is stated to rely on the statement of SMC in its permit application that construction began in May 2018 and in its photographic evidence of August 2018 showing installation completed for some components of a new rock crushing operation. However, the Division is stated to also recognize that SMC had been working with a consultant on its application and had submitted its application at the time of the site visit.

As a result, it is stated there is a basis to view this violation differently from other situations in which there is no application made until discovery of a new source or new process or operation at an existing source.

A civil penalty of \$750 is assessed which is stated to represent a 50 percent reduction of the assessment in view of the stated good faith intent by SMC to file an application.

A copy of the Agreement can be downloaded [here](#).