



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Air Pollution Control
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, TN 37243

APR 12 2017

Certified Article Number

9414 7266 9904 2058 5330 78

SENDERS RECORD

The Prentice-Hall Corporation System, Inc.
2908 Poston Avenue
Nashville, Tennessee 37203-1312

RE: State Industries, LLC
Facility Id. 11-0023
Case No. APC16-0175

Dear Sir or Madam:

Enclosed please find an Order issued by Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, Tennessee Department of Environment and Conservation, in the above referenced matter. Please read it carefully and pay special attention to the NOTICE OF RIGHTS section.

If you have any questions regarding this matter, please contact Tammy Gambill at (615) 532-0531 or via e-mail to air.pollution.control@tn.gov.

Sincerely,

Kevin McLain
Section Manager, Enforcement
Division of Air Pollution Control

vom

Enclosure

TENNESSEE AIR POLLUTION CONTROL BOARD

IN THE MATTER OF:

STATE INDUSTRIES, LLC

RESPONDENT

)
)
)
)
)
)
)

DIVISION OF AIR POLLUTION CONTROL

CASE NO. APC16-0175

TECHNICAL SECRETARY'S ORDER AND ASSESSMENT OF CIVIL PENALTY

Comes now, Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, and states that:

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"), Tennessee Department of Environment and Conservation ("Department").

II.

State Industries, LLC ("Respondent") is a domestic limited liability company authorized to do business in the State of Tennessee. Respondent's facility address is 500 Tennessee Waltz Parkway, Ashland City, Tennessee 37015-1234. Respondent's registered agent for service of process is The Prentice-Hall Corporation System, Inc., 2908 Poston Avenue, Nashville, Tennessee 37203-1312.

AUTHORITY

III.

Pursuant to Tennessee Code Annotated ("Tenn. Code Ann.") § 68-201-116, the Technical Secretary may assess a civil penalty of up to TWENTY-FIVE THOUSAND DOLLARS (\$25,000) per day for each day of violation of the Tennessee Air Quality Act ("Act") or any rules

or regulations promulgated thereunder (“Division Rules”) against any person who violates said Act or Division Rules, and/or the Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Division Rules are violated. In addition, such person may also be liable for any damages to the State resulting therefrom.

IV.

Respondent is a “person” within the meaning of Tenn. Code Ann. § 68-201-102, and has violated the Division Rules as hereinafter stated.

V.

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

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated within the meaning of Tenn. Code Ann. § 68-201-102.

VII.

Respondent operates an “air contaminant source” within the meaning of Tenn. Code Ann. § 68-201-102.

FACTS

VIII.

On August 30, 2013, the Technical Secretary issued Major Source operating permit (“Title V”) number 562496, (facility 11-0023), to Respondent for the manufacturing of water heaters. Condition E3-5 of the Title V permit indicates the Respondent is subject to all applicable requirements of the Environmental Protection Agency’s Title 40, Code of Federal Regulations Part 63, Subpart DDDDD – National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters, published March 21, 2011, amended January 31, 2013.

IX.

On or about October 12, 2016, Division personnel conducted an annual inspection and discovered Respondent had not conducted the energy assessment and tune-ups for the process heaters at emission source 19 as required by condition E3-5 of the Title V permit.

X.

On October 28, 2016, the Division issued a Notice of Violation to the Respondent for the above violations. On October 31, 2016, and November 1, 2016, Respondent conducted tune-ups for the process heaters at emission source 19. On December 15, 2016, Respondent conducted the energy assessments for the process heaters at emission source 19.

VIOLATIONS

XI.

By failing to comply with conditions of an operating permit, as discussed herein, the Respondent has violated Tenn. Comp. R. & Regs. 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.

RELIEF

XII.

WHEREFORE, PREMISES CONSIDERED, I, Michelle Walker Owenby, Technical Secretary, under the authority vested in me, hereby ORDER as follows:

1. Respondent is assessed a CIVIL PENALTY in the amount of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500)** for the violation of Division Rules, as discussed herein.
2. Respondent shall pay the assessed **CIVIL PENALTY** in full to the "Treasurer, State of Tennessee" as detailed in the Notice of Rights. The case number, **APC16-0175**, should be clearly shown on the check or money order to ensure that the payment is properly credited. Payment shall be made on or before the thirty-first (31st) day after receipt of this ORDER and ASSESSMENT.

The Technical Secretary does not expressly or implicitly waive her authority pursuant to any provision of the Act or Division Rules by issuing this ORDER AND ASSESSMENT OF CIVIL PENALTY. Failure to comply with any of the requirements of this ORDER could lead to further enforcement actions which may include additional civil penalties, assessment of damages and/or recovery of costs.

NOTICE OF RIGHTS

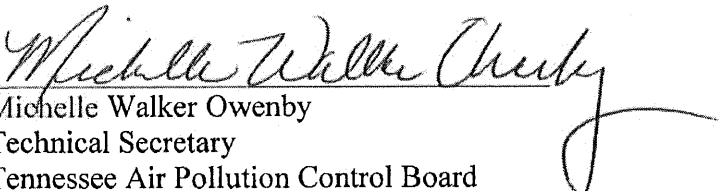
Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b), allow Respondent to appeal this ORDER AND ASSESSMENT OF CIVIL PENALTY (“Order and Assessment”). To do so, a written petition setting forth the grounds (reasons) for requesting a hearing must be RECEIVED by the Technical Secretary within THIRTY (30) DAYS of the date Respondent received this Order and Assessment or this Order and Assessment becomes final (not subject to review).


If an appeal is filed, an initial hearing of this appeal will be conducted by an Administrative Law Judge (“ALJ”) as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 68-201-108(a), Tenn. Code Ann. § 4-5-301 *et seq.* (the Uniform Administrative Procedures Act), and Tenn. Comp. R. & Regs. 1360-04-01 *et seq.* (the Department of State’s Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). 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 (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 ALJ has the authority to affirm, modify, or deny this Order and Assessment. This includes the authority to modify (decrease or increase) the penalty within the statutory confines of Tenn. Code Ann. § 68-201-116 (up to \$25,000 per day per violation). Furthermore, the ALJ 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 ALJ and a court reporter.

Any petition for review (appeal) must be directed to the Technical Secretary, Tennessee Division of Air Pollution Control, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 2nd Floor, Nashville, Tennessee 37243. Payments of the civil penalty and/or damages shall be made payable to the "Treasurer, State of Tennessee" and sent to the Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 10th Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Attn: Tammy Gambill, Division of Air Pollution Control, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243 or via e-mail to air.pollution.control@tn.gov. Attorneys should contact the undersigned counsel of record. **The case number, APC16-0175, should be written on all correspondence regarding this matter.**

Issued by the Technical Secretary, Tennessee Air Pollution Control Board, Department of Environment and Conservation, on this 12th day of APRIL, 2017.


Michelle Walker Owenby
Technical Secretary
Tennessee Air Pollution Control Board

Reviewed by

Steven R. Stout
BPR # 014174
Assistant General Counsel
Department of Environment & Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 532-0138
steven.stout@tn.gov