

**STATE OF TENNESSEE**

**AIR POLLUTION CONTROL BOARD**

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<b>IN THE MATTER OF:</b>	)	<b>DIVISION OF AIR POLLUTION</b>
	)	<b>CONTROL</b>
	)	
<b>WORKHORSE CABS, LLC dba</b>	)	
<b>CRENLO ENGINEERED CABS,</b>	)	
	)	
<b>RESPONDENT.</b>	)	<b>CASE NO. APC22-0078</b>

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**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.**

Workhorse Cabs, LLC dba Crenlo Engineered Cabs (“Respondent”) is a foreign limited liability company formed in Delaware and authorized to do business in the State of Tennessee. Respondent’s facility address is 115 Terry Leonard Drive, Greeneville, Tennessee 37745. Respondent’s registered agent for service of process is Cogency Global Inc., 992 Davidson Drive, STE B, Nashville, Tennessee 37205-1051.

**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.**

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 July 26, 2013, the Technical Secretary issued operating permit number 067205, (facility 30-0174), to the Respondent for a surface coating operation. On May 18, 2020, the Technical Secretary amended operating permit number 067205 following a change in ownership.

#### **VIII.**

Condition S2-8(d) of operating permit 067205 states:

Permittee must comply with the requirements for spray painting worker certification. All workers performing painting must be certified that they have completed training in the proper spray application of paints and the proper setup and maintenance of spray equipment. The minimum requirements for training and certification are described in paragraph 40 CFR §63.11516(d)(6). The spray application of paint is prohibited by persons who are not certified as having completed the training described in paragraph §63.11516(d)(6).

**IX.**

On March 10, 2022, and March 25, 2022, Division personnel conducted inspections at the Respondent's facility. During the inspection, the Respondent was not able to produce the records that demonstrated workers who performed painting were certified as having completed the training described in paragraph 40 CFR §63.11516(d)(6) in Condition S2-8(d) of operating permit number 067205. Therefore, the Respondent violated Condition S2-8(d) of operating permit number 067205.

**X.**

On April 22, 2022, the Division issued a Notice of Violation to Respondent for the violation discussed in paragraph **IX**.

**VIOLATIONS**

**XI.**

By failing to comply with Condition S2-8(d) of operating permit 067205, 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**

**XII.**

1. The Respondent must provide training to all employees engaged in spray painting activities as described in paragraph 40 CFR §63.11516(d)(6).
2. The Respondent shall submit documentation demonstrating that all employees engaged in spray painting activities are properly trained and certified within 30 days after receipt of this Order and Assessment.
3. Respondent is assessed a civil penalty of \$1,500.00 for violation of the Act and Rules. This amount shall be paid as follows:
  - a. If Respondent timely complies with Item 1. and Item 2. of Paragraph **XII**., then the Respondent will be assessed a civil penalty of \$750.00 to be paid in full within 31

days of Division receipt of the proper employee spray painting certification to the Department at the following address:

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

- b. If the Respondent fails to timely comply with Item 1. and Item 2. of Paragraph **XII.**, then the total assessed civil penalty of \$1,500.00 shall be paid in full within 31 days of the noncompliance to the Department at the following address:

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

The case number, APC22-0078, should be clearly written on all correspondence.

The Technical Secretary may, for good cause shown, extend the compliance dates contained within this Order and Assessment. To be eligible for this time extension, the Respondent shall submit a written request to the Department to be received in advance of the compliance date. The request must include sufficient detail to justify an extension and include, at a minimum, the precise cause of the delay, anticipated length of the delay, and all preventive measures taken to minimize the delay.

#### **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(s). 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(s).

### **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 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  
Tennessee Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower, 2<sup>nd</sup> 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 Law Judge (ALJ) 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.

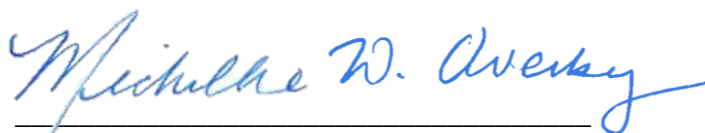
At the conclusion of any initial hearing, the ALJ has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The ALJ, on behalf of the Board, has the authority to assess additional 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.

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

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

Attorneys should contact the undersigned counsel of record. The case number, APC22-0078, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Air Pollution Control Board, Department of Environment and Conservation, on this Thirtieth day of August, 2022.



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Michelle Walker Owenby  
Technical Secretary  
Air Pollution Control Board

Reviewed by:



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