

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ENF: 354290
AIRS: 1230

In the Matter of:

Erie Coke Corporation :
P.O. Box 6180 : Violation of the Air Pollution Control Act
Erie, PA 16512-6180

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty is entered into this 13th day of June

2017, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Erie Coke Corporation.

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Air Pollution Control Act, Act of January 8, 1960, P.L. 2119, *as amended*, 35 P.S. §§ 4001-4015 ("Air Act"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 ("Administrative Code"); and the rules and regulations promulgated thereunder ("Regulations").

B. Erie Coke Corporation is a corporation registered to do business in the Commonwealth of Pennsylvania. Erie Coke Corporation maintains a mailing address of P.O. Box 6180, Erie, PA 16512-6180 and is a "person" as that term is defined in Section 3 of the Air Act, 35 P.S. § 4003.

C. Erie Coke Corporation owns and operates a foundry coke production plant located at 925 East Bay Drive, City of Erie, Erie County, Pennsylvania ("Facility").

D. Erie Coke Corporation owns and operates an Absorber/Thionizer, also known as Source C805A, among other sources, which is an "air contamination source", as that term is defined in Section 3 of the Air Act, 35 P.S. § 4003, and 25 Pa. Code § 121.1.

E. On March 27, 2013, the Department reissued Title V Operating Permit No. TV-25-00029 to Erie Coke Corporation for the operation of the air contamination sources at the Facility ("Permit"). On October 3, 2016, the Department amended the Permit.

F. On or about May 1, 2016, Erie Coke Corporation installed and began operating a fixed cover on the Absorber/Thionizer without Department approval.

G. On June 23, 2016, the Department received information from Erie Coke Corporation via electronic mail regarding the installation of a fixed cover as an air pollution control strategy on the Absorber/Thionizer.

H. The fixed cover is an "air cleaning device", as that term is defined in 25 Pa. Code § 121.1, as an article, chemical, machine, equipment or other contrivance, the use of which may eliminate, reduce or control the emission of air contaminants into the atmosphere.

I. Pursuant to Section 6.1 of the Air Act, 35 P.S. § 4006.1 and 25 Pa. Code § 127.11, a person may not cause or permit the installation of an air cleaning device on an air contamination source unless the installation has been approved by the Department.

J. Erie Coke Corporation installed the fixed cover on the Absorber/Thionizer prior to the issuance of a plan approval from the Department in violation of Section 6.1 of the Air Act, 35 P.S. § 4006.1, and 25 Pa. Code § 127.11.

K. Pursuant to 25 Pa. Code § 127.443, a person may not operate an air cleaning device, in which its installation is subject to the plan approval requirements of 25 Pa. Code § 127.11, unless the Department has issued a permit to operate the source.

L. Erie Coke Corporation operated the fixed cover on the Absorber/Thionizer prior to the issuance of an operating permit in violation of 25 Pa. Code § 127.443.

M. On July 21, 2016, the Department issued a Notice of Violation to Erie Coke Corporation for the violation identified in Paragraphs J and L, above.

N. On August 10, 2016, Erie Coke Corporation requested that the Department allow the cover to remain in place pending the Department's consideration of a plan approval application. Erie Coke Corporation noted that it would remove the cover if a response was not received from the Department.

O. On August 12, 2016, the Department received a plan approval application from Erie Coke Corporation for the installation and operation of the fixed cover on the Absorber/Thionizer.

P. On August 16, 2016, Ms. Christina Wilhelm contacted Mr. Randy Wiler, Erie Coke Corporation Environmental Manager, and requested that the fixed cover not be removed.

Q. On April 4, 2017, the Department issued Plan Approval No. 25-029D to Erie Coke Corporation for the installation and operation of the fixed cover on the Absorber/Thionizer.

R. The violations described in Paragraphs J and L, above, constitute unlawful conduct under Section 8 of the Air Act, 35 P.S. § 4008, and a statutory public nuisance under Section 13 of the Air Act, 35 P.S. § 4013, and subject Erie Coke Corporation to a claim for civil penalties under Section 9.1 of the Air Act, 35 P.S. § 4009.1.

S. As of the date of this Consent Assessment of Civil Penalty, Erie Coke Corporation has corrected all of the violations identified in Paragraphs J and L, above.

After full and complete negotiation of all matters set forth in this Consent Assessment of Civil Penalty and upon mutual exchange of the covenants herein, the Parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by Erie Coke Corporation as follows:

1. **Assessment.** In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 9.1 of the Air Act, 35 P.S. § 4009.1, the Department hereby assesses a civil penalty of \$2,000, which Erie Coke Corporation hereby agrees to pay.

2. **Civil Penalty Settlement.** Upon signing this Consent Assessment of Civil Penalty, Erie Coke Corporation shall pay the civil penalty assessed in Paragraph 1. The payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs J and L, above, for the date set forth herein. The payment shall be by corporate check or the like, made payable to "Commonwealth of Pennsylvania Clean Air Fund," and sent to the attention of Christina S. Wilhelm, Regional Manager, Air Quality Program, Northwest Regional Office, Commonwealth of Pennsylvania, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335-3481.

3. **Findings.**

(a) Erie Coke Corporation agrees that the Findings in Paragraphs A through S are true and correct and, in any matter or proceeding involving Erie Coke Corporation and the Department, Erie Coke Corporation shall not challenge the accuracy or validity of these Findings.


(b) The Parties do not authorize any other persons to use the Findings in this Consent Assessment of Civil Penalty in any matter or proceeding.

4. **Reservation of Rights.** The Department reserves all other rights with respect to any matter addressed by this Consent Assessment of Civil Penalty, including the right to require abatement of any conditions resulting from the events described in the Findings. Erie Coke Corporation reserves the right to challenge any action which the Department may take, but waives the right to challenge the content or validity of this Consent Assessment of Civil Penalty.

IN WITNESS WHEREOF, the Parties have caused this Consent Assessment of Civil Penalty to be executed by their duly authorized representatives. The undersigned representative of Erie Coke Corporation certifies, under penalty of law and as provided by 18 Pa.C.S.A. § 4904, that he is authorized to execute this Consent Assessment of Civil Penalty on behalf of Erie Coke Corporation, that Erie Coke Corporation consents to the entry of this Consent Assessment of Civil Penalty as an

ASSESSMENT of the Department, that Erie Coke Corporation hereby knowingly waives any right to a hearing under the statutes referenced in this Consent Assessment of Civil Penalty, and that Erie Coke Corporation knowingly waives its right to appeal this Consent Assessment of Civil Penalty and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514, the Administrative Agency Law, 2 Pa.C.S.A. § 103(a) and Chapters 5A and 7A, or any other provision of law. Signature by Erie Coke Corporation's attorney certifies only that the assessment has been signed after consulting with counsel.

FOR ERIE COKE CORPORATION

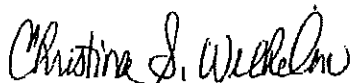


Anthony Nearhoof
Plant Superintendent
Erie Coke Corporation

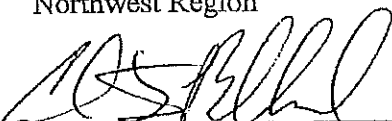
WAIVED

Louis A. Naugle, Esq.
Reed Smith LLP
Attorney for Erie Coke Corporation

**FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:**



Christina S. Wilhelm
Regional Manager
Air Quality Program
Northwest Region



Carl D. Ballard
Assistant Counsel



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

MEMO

TO AQ/Fac/Case/25-000-00029
Erie Coke Corporation

FROM Kimberly Fleet *KFJ*
Compliance Specialist
Air Quality Program

THROUGH Lori L. McNabb *LLM*
Operations Chief
Air Quality Program

DATE June 21, 2017

RE Closure Memo

NOV DATE July 21, 2016

ABATEMENT DATE June 13, 2017

High Priority Violator Yes No

EXPLANATION:

On July 21, 2016, the Department issued a Notice of Violation to Erie Coke Corporation for the installation and operation of a fixed cover on the Thionizer/absorber unit without Department approval. The violations were corrected with the issuance of Plan Approval No. 25-029D on April 4, 2017.

On June 13, 2017, the Department and Erie Coke Corporation entered into a Consent Assessment of Civil Penalty. In this agreement, Erie Coke Corporation agreed to the assessed penalty of \$2,000. This penalty was paid in full on June 13, 2017 with check no. 502614.

This case is closed.

cc: ra-epaircompliance@pa.gov ✓



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

ENF: 354 290
AIRS: 1230

June 15, 2017

Mr. Anthony Nearhoof
Plant Superintendent
Erie Coke Corporation
P.O. Box 6180
Erie, PA 16512-6180

Re: Executed Consent Assessment of Civil Penalty
Violation of the Air Pollution Control Act

Dear Mr. Nearhoof:


Enclosed please find a copy of the Consent Assessment of Civil Penalty document, as executed by the Department of Environmental Protection on June 13, 2017.

Thank you for your cooperation in this matter.

Sincerely,

Kimberly Fleet
Compliance Specialist
Air Quality Program

Enclosure

cc: D. Moorhead, OCC (via email) ✓
C. Ballard, OCC (via email) ✓
AQ/Fac/Case/25-000-00029 through L. McNabb 
ra-epaircompliance@pa.gov ✓