

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**CENTRO, INC.**

Facility ID# 52-07-006

ADMINISTRATIVE CONSENT ORDER  
NO. 2009-AQ-20

TO: Centro, Inc.  
Gary Rozek, Chairman and CEO, Registered Agency  
950 North Bend Drive  
North Liberty, Iowa 52317

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Centro, Inc., (Centro) for the purpose of resolving air quality violations at its facility in North Liberty, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Kurt Levetzow, Field Office No. 6  
Iowa Department of Natural Resources  
1023 West Madison  
Washington, Iowa 52353  
Phone: 319/653-2135

**Relating to legal requirements:**

Anne Preziosi, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Urbandale, Iowa 50322  
Phone: 515/281-6243

**Payment of penalty to:**

Iowa Department of Natural Resources  
Henry A. Wallace Building  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

Pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties, the DNR has jurisdiction to issue this administrative consent order.

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**III. STATEMENT OF FACTS**

**DESCRIPTION OF FACILITY:**

1. Centro has a facility located on the north-northeastern edge of North Liberty, Iowa. The facility manufactures plastic parts for other original equipment manufacturers.

2. Resin pellets are delivered to Centro via rail. They are then pulverized and stored in one of five storage silos. The resin powder is then pneumatically conveyed into the facility where it is mixed and poured into thirteen rotational molding machines. Each set of rotational molders consists of an loading station, a curing oven and a cooling chamber. Each set of rotational molders is equipped with two stacks, for a total of 26 emission points. The curing ovens and cooling chambers vent directly to the atmosphere through the roof of the building. Centro also has a "pulverizing room" which generates particulate emissions. Particulate emissions from the pulverizing room are pneumatically conveyed into a Tenkay dust collector that vents outdoors.

3. Centro has operated rotational molding machines in the State of Iowa since 1970 without a construction permit. It is Centro's position that Centro was not aware that construction permits were required for their rotational molders. In addition, it is Centro's position that on previous visits by DNR, Centro was not made aware that construction permits were required specifically for its rotational molding machines.

**CURRENT ENFORCEMENT HISTORY:**

4. In error, Centro did not obtain air quality construction permits prior to installation and operation of equipment or to otherwise qualify for an exemption from construction permitting. In error, Centro did not timely obtain construction permits for both its thirteen sets of rotational molders and for its Tenkay dust collector.

5. On November 14, 2007, DNR Field Office No. 6 received a complaint against Centro, forwarded by DNR's Air Quality Bureau. On November 20, 2007, Kurt Levetzow and Mark Heiderscheit of DNR Field Office No. 6 investigated the complaint. Following this complaint investigation, a November 28, 2007, Notice of Violation was issued to Centro for failure to timely obtain air quality construction permits for its thirteen sets of rotational molders and for its Tenkay dust collector. The Notice of Violation letter also cited Centro's failure to complete opacity testing required by four construction permits issued to Centro in 2001.

6. The rotational molders at this facility were installed in the 1990's, and air quality construction permits should have been obtained prior to installation and operations of these emissions units. The Tenkay dust collector was installed at Centro in 1992 or 1993. Air quality construction permits should have been obtained prior to installation and operation of this emissions unit.

7. Centro has asserted that an exemption to air quality construction permitting contained in the provisions of 567 IAC 22.1(2)"w" applies to its unpermitted emissions units.

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14. Finally, in error, Centro did not submit complete information to DNR regarding the emissions at its facility when it submitted its 2006 Minor Source Emissions Inventory. In error, Centro did not provide complete information by failing to provide information regarding the emission units that Centro asserted are exempted from construction permitting.

15. It is Centro's position that even though Mr. Jones of the DNR observed the rotational molding machines and the Tenkay dust collector on his visit in 1999, no further request or requirement for permitting this equipment was made until the 2007 visit by DNR. It is Centro's position that in error, Centro should have but did not understand the need for permitting this equipment until the visit in 2007.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-34 relating to air quality.

**Failure to timely obtain construction permits:**

2. 567 IAC 22.1(1) provides that unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph "c" of this subrule, no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit, or conditional permit, or permit pursuant to 22.8(455B), or permits required pursuant to 22.4(455B) and 22.5(455B) as required in this subrule. Centro failed to timely obtain permits for thirteen sets of rotational molders, each with two emission points, and one Tenkay dust collector. No exemption from construction permitting applies to these emissions units. Further, these emission units did not meet the parameters established in paragraph "c" of the subrule.

3. Centro has asserted that an exemption to air quality construction permitting contained in 567 IAC 22.1(2)"w" applies to its unpermitted emissions units. However, Centro failed to maintain on site and make available during on-site inspections the required exemption justification documents. According to the provisions of 567 IAC 22.1(2)"w", if an exemption justification document does not exist, the applicability of the small unit exemption is voided for that particular emission unit or group of similar emission units. Further, all of these emissions units had been installed and used prior to the time this exemption was promulgated in 2004.

**Failure to timely comply with the emissions inventory requirement:**

4. Iowa Code section 455B.133 authorizes DNR to "classify air contaminant sources according to levels and types of emissions..." and to "require, by rule, the owner or operator of any air contaminant source to establish and maintain such records [and] make such reports..." 567 IAC 21.1(3) states that "[the person responsible for equipment as defined herein shall provide information on fuel use, materials processed, air contaminants emitted, estimated rate of emissions, periods of emissions or other air pollution information

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However, Centro failed to maintain on site and make available during on-site inspections the required exemption justification documents. According to the provisions of 567 IAC 22.1(2)"w", if an exemption justification document does not exist, the applicability of the small unit exemption is voided for that particular emission unit or group of similar emission units.

8. Further, the exemption to air quality construction permitting contained in the rule found at 567 IAC 22.1(2)"w" did not become effective until January 14, 2004. Since the rotational molders and the Tenkay dust collector were installed unpermitted during the 1990's and 1992-93, respectively, the exemption would not have applied to these unpermitted emission units until 2004.

9. On August 29, 2008, following applications submitted by Centro, fourteen air quality construction permits were issued for the as-built equipment consisting of the Tenkay dust collector and the rotational molders.

**PAST ENFORCEMENT HISTORY:**

10. On September 28, 1999, DNR Field Office No. 6 received a complaint against Centro due to resin dust being emitted from its storage bin vents. The resin dust was coating the surface of the ground. On October 5, 1999, Terry Jones of DNR Field Office No. 6 investigated the complaint. During this complaint investigation, Mr. Jones determined that the three bin vents were air emission sources that discharge to the outside atmosphere and that no construction permits had been obtained by Centro prior to constructing and operating the equipment. On October 13, 1999, Mr. Jones issued Centro a Notice of Violation letter, instructing Centro to obtain construction permits for all emission sources that vent outdoors. At the time of Mr. Jones' visit in 1999, he noted that Centro had nine rotational molding machines. It is Centro's position that because Mr. Jones did not specifically request that the dust collector and rotational molding machines be permitted, the Facilities Engineer for Centro did not understand that the rotational molders and dust collectors required construction permits.

11. On February 14, 2000, Centro sent a letter to DNR's Air Quality Bureau and to DNR Field Office No. 6, stating that "construction permit applications are being submitted for silo bin vents that Centro uses as part of our polyethylene resin processing". On January 29, 2001, DNR issued three air quality construction permits to Centro for its silo bin vents.

12. On January 26, 2001, Ted Petersen of DNR's Air Quality Bureau sent a letter to Centro regarding Centro's permitting compliance status. The letter specifically stated that when planning future projects, Centro should remember that it is required to have a construction permit issued **prior** to initiating new construction.

13. Following the permitting history established in 1999-2001, Centro timely applied for and received four additional air quality construction permits, as required. On February 25, 2004, DNR issued four additional construction permits to Centro for a pre-heat oven exhaust, dispense station exhaust, curing oven emergency exhaust, and a cooling chamber exhaust. These four permits were for a new rotational molding machine specially designed for a new material, Caprolactum, and a new process called Anionic Polymerization. It is Centro's position that Centro requested and received guidance for permitting the equipment for this new material and process, and that Centro, therefore, showed a good faith effort to timely comply with air permitting regulations.

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to the director upon the director's written request for use in compiling and maintaining an emissions inventory for evaluation of the air pollution situation in the state and its various parts. The information requested shall be submitted on forms supplied by the department." DNR requested 2006 emission inventory information from Centro, and Centro failed to provide complete information by failing to provide information regarding the emission units that Centro asserted are exempted from construction permitting.

**V. ORDER**

THEREFORE, the DNR orders and Centro agrees to do the following:

1. Centro shall provide a supplemental 2006 Minor Source Emissions Inventory (MSEI). The MSEI shall include forms INV-1, INV-2, INV-3, INV-4 and INV-5 for all emission units at the facility. In addition, the supplemental MSEI should include the following: the annual raw materials used in each emission unit (natural gas, caprolactum, polyethylene, nylon, etc.) with associated emissions data, the emissions data for the Pulverizer Room dust collector, and the amount of all release agents sprayed in each emission unit in 2006. Centro shall provide additional emissions information to the DNR Air Quality Bureau upon request.
2. Within 60 days of the date the Director signs this order, apply for air quality construction permits and provide written proof of exemption from construction permitting for all emissions sources at the facility venting to the outside atmosphere, including but not limited to the Tenkay dust collector and all rotational molder equipment.
3. Pay a penalty of \$1,500.00 within 30 days of the date the Director signs this administrative consent order.

**VI. PENALTY**

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this chapter, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty of \$1,500.00. The administrative penalty assessed by this order is determined as follows:

Economic Benefit - The failure of Centro to obtain a permit prior to construction has prevented the DNR from evaluating the environmental impact prior to installation. This time saving factor has allowed Centro to operate sooner, thereby affecting a cost savings by avoiding construction and operating delays. This savings is estimated to be at least \$500.00, and this amount is assessed for this factor.

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Gravity of the Violation - An air quality construction permit is required to be obtained prior to construction in order to allow for the prior review of plans and specifications pertaining to a proposed contaminant source. The purpose of this review is to determine if the source will meet all applicable emission limits and operating requirements. This review insures that the interests of the citizens of Iowa in clean air are protected. Construction prior to obtaining required permits also threatens the integrity of the construction permit and air pollution control programs. For these reasons, \$750.00 is assessed for the gravity of the violations.

Culpability - Centro has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Centro had prior knowledge of the air quality construction permit requirements. For these reasons, \$250.00 is assessed for this factor.

**VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly and with the consent of Centro. For this reason, Centro waives its rights to appeal this order or any part thereof.

**VIII. NONCOMPLIANCE**

Failure to comply with this order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

  
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RICHARD A. LEOPOLD, DIRECTOR  
Iowa Department of Natural Resources

Dated this 2 day of  
July, 2009.

  
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For Centro, Inc.  
Iowa Department of Natural Resources

Dated this 24<sup>th</sup> day of  
June, 2009.