

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

IN THE MATTER OF: AEC Enterprises, Inc.	ADMINISTRATIVE CONSENT ORDER NO. 2014-AQ- 20
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To: AEC Enterprises, Inc.
Patrick Burk, Attorney
Kenneth L. Butters, Registered Agent
6701 Westown Parkway, Suite 100
West Des Moines, Iowa 50266

AEC Enterprises, Inc.
Bruce G. Austin, President
114 East Main Street
St. Charles, Iowa 50240

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and AEC Enterprises, Inc., (AEC) for the purpose of resolving air quality permit violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Bill Gross
Iowa Department of Natural Resources
Field Office No. 5
7900 Hickman Road
Windsor Heights, Iowa 50324
Phone: 515-725-0271

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515-725-9551

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This administrative consent order is issued 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

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Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. AEC has a facility located in rural Warren County, north of New Virginia. The address of the facility is 21305 20th Avenue. The facility manufactures seed corn processing equipment. AEC has failed to maintain operating records for its Warren County facility, as required by its air quality construction permits.

2. On October 18, 2000, Bill Gross of DNR Field Office No. 5 conducted a compliance assistance inspection at the facility and found that no emission points at the facility had construction permits. A November 13, 2000, inspection report required that AEC submit necessary construction permit applications by February 1, 2001.

3. On February 23, 2001, DNR received a construction permit application for a paint booth. In a May 9, 2001, letter, the DNR Air Quality Bureau informed AEC that DNR proposed to include specific recordkeeping requirements in the pending permit. On June 5, 2001, AEC emailed DNR, stating that the proposed permit conditions were acceptable. AEC requested issuance of the permit.

4. Air Quality Construction Permit No. 01-A-623 was issued on June 5, 2001, for the EP-1 paint booth at the facility. The permit contained the proposed recordkeeping requirements. Section 14 of the permit contained "operating limits," and Section 15 of the permit contained "operating condition monitoring." The significance of these permit conditions is that they were intended to assist DNR and the permittee in assuring that the Volatile Organic Compound (VOC) and Hazardous Air Pollutant (HAP) emissions limits contained in Section 10 of the permit would be met. Those emission limits were placed into the permit to allow the facility to become a Title V Synthetic Minor facility, which means that the facility was not required to obtain a Title V Operating Permit. AEC did not appeal any of the conditions of the permit.

5. On January 30, 2003, Mr. Gross conducted a compliance assistance inspection at the facility. He found raw data to complete required VOC recordkeeping was available, but the data was not collated, as required by Section 15 of the permit. The HAP records required by Section 15 of the permit were available. Also, one spray material exceeded the HAP content limit contained in Section 14 of the permit. Finally, the exhaust stack was not constructed in accordance with the specifications contained in Section 11 of the permit. After discussions with DNR, on February 10, 2003, AEC submitted a request for a permit amendment to address these three issues.

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6. Also during the January 30, 2003, inspection, Mr. Gross was not able to find spray gun capacity records that would ensure compliance with Section 14 of the permit. A February 17, 2003, DNR letter required that AEC address the spray gun issue by no later than March 20, 2003. The requested spray gun specifications were submitted with the February 14, 2003, permit amendment application.

7. Finally, wastewater discharge from the plant was not permitted for on-site disposal, although on-site disposal was occurring. In its February 17, 2003, letter, DNR also required that AEC address the wastewater issue by no later than March 20, 2003. On May 28, 2003, AEC submitted to DNR Field Office No. 5 a response outlining a solution to address the issue. On April 3, 2003, Air Quality Construction Permit No. 01-A-623-S1 was issued for the EP-1 paint booth at the facility. Permit No. 01-A-623-S1 revised the painting and cleaning material HAP content limit contained in Section 14, and the stack specifications contained in Section 11 of Permit No. 01-A-623.

8. On November 11, 2004, Mr. Gross conducted a routine compliance inspection and found that spray material records were not collated, as required by Section 15 of Permit No. 01-A-623-S1, and that the exhaust stack was not constructed in accordance with the permit specifications contained in Section 11 of Permit No. 01-A-623-S1. The exhaust stack at the facility had an obstructed top, and the permit called for unobstructed opening. A December 27, 2004, Notice of Violation letter was issued, and it required a response from the facility by January 30, 2005. On February 1, 2005, AEC submitted a response containing both the required collated records and a statement that the stack cap had been removed.

9. Air Quality Construction Permit No. 01-A-623-S2 was issued to AEC on March 24, 2009, for the EP-1 paint booth at the facility. On June 10, 2009, Mr. Gross conducted a routine compliance inspection and found that some required records were not in order and that some MSDS information was not current, as required by Section 15 of Permit No. 01-A-623-S2. AEC staff stated that records were being moved to a new spreadsheet. On June 12, 2009, AEC submitted the records, but HAP contents still had not been determined. On July 15, 2009, AEC staff sent an email message to Mr. Gross, stating that the facility was attempting to improve its practices.

10. On December 11, 2013, Mr. Gross conducted a routine compliance inspection and found that spray material records were not available, as required by Section 15 of Permit No. 01-A-623-S2. AEC supplied purchase records and applicable MSDS sheets to DNR during the following week, and Mr. Gross collated the data to determine compliance. The link to the University of Northern

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Iowa Waste Reduction Center tracking spreadsheet for spray booths was sent by Mr. Gross to AEC staff to assist them.

11. On December 24, 2013, DNR sent a Notice of Violation letter to AEC, along with the inspection report from the December 11, 2013, inspection. The facility sent an email to Mr. Gross on December 30, 2013, stating that records were being maintained.

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 20-35 relating to air quality.

2. Iowa Code section 455B.134(3) provides that the director of DNR shall grant, modify, suspend, terminate, revoke, reissue or deny permits for the construction or operation of new, modified, or existing air contaminant sources and for related control equipment.

3. Pursuant to Iowa Code sections 455B.133 and 455B.134, 567 IAC 22.3(3) provides that a construction permit may be issued subject to conditions which shall be specified in writing. Such conditions may include but are not limited to emission limits, operating conditions, fuel specifications, compliance testing, continuous monitoring, and excess emission reporting. Since 2001, AEC has repeatedly failed to comply with the conditions of its construction permits.

V. ORDER

THEREFORE, DNR orders and AEC agrees to the following:

1. AEC shall pay a penalty of \$5,000.00 within 30 days of the date this order is signed by the Director,

2. AEC shall comply with all construction permit conditions at all times, including maintaining materials usage and content records as described in its permits, and

3. AEC shall have at all times a staff person designated to accomplish environmental compliance, and AEC shall ensure that any person in that position has received the appropriate internal training. By no later than August 15, 2014, AEC shall provide a written statement to DNR that these actions are being implemented.

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VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$5,000.00 is assessed by this administrative consent order. The penalty must be paid within 30 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

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 Iowa Code section 455B.146A.

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 rule, 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. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – AEC saved the cost of staff time to properly maintain records and comply with its construction permits since 2001. Conservatively estimating a savings of \$300 per year over ten years leads to a savings of \$3,000.00. Therefore, the amount of \$3,000.00 is assessed for this factor.

Gravity of the Violation – DNR conducted five inspections over 13 years and found repeated violations through this time period. AEC is classified an 80% synthetic minor for Title V purposes. Keeping materials usage records is required to keep the facility from becoming a major facility, which would require an operating permit. The failure of AEC to comply with permit requirements threatens the integrity of the DNR regulatory program. Therefore, \$1,000.00 is assessed for the gravity of the violations.

Culpability – AEC has repeatedly failed to maintain proper records even after it initially agreed to this monitoring and with continued DNR assistance. For the above reasons \$1,000.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

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

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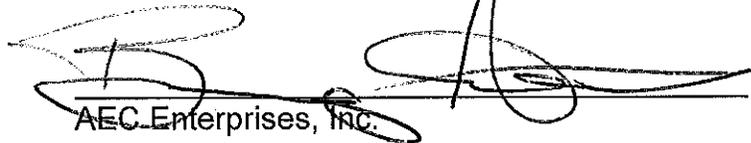
VIII. NONCOMPLIANCE

Failure to comply with this administrative consent 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 sections 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.



Chuck Gipp, Director
Iowa Department of Natural Resources

Dated this 29th day of
July, 2014.



AEC Enterprises, Inc.

Dated this 24th day of
July, 2014.

DNR Field Office 5; Anne Preziosi; VII.C.2