

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**In the Matter of:**

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

**CONSENT ASSESSMENT OF CIVIL PENALTY**

This Consent Assessment of Civil Penalty is entered into this 3<sup>rd</sup> day of January, 201~~8~~<sup>7</sup>, 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 Pennsylvania 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 facility for the production of foundry coke located at the foot of East Avenue between Presque Isle Bay and the Bayfront Highway in the City of Erie, Erie County, Pennsylvania (“Facility”).

D. Erie Coke Corporation owns and operates Coke Oven Battery Underfiring System, also known as Source 805, at the Facility, among other sources, which are each 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 (“Permit”) to Erie Coke Corporation.

F. In accordance with the Permit, Section D, Source 805, Condition No. 003, nitrogen oxide emissions from the Battery Underfire Operation System shall not exceed 19.9 pounds per hour.

H. On December 10-11, 2014, Erie Coke Corporation conducted a stack test in the Battery Underfire Stack to determine nitrogen oxide emissions.

I. On May 11, 2016, the Department’s Division of Source Testing and Monitoring stack test review results identified the nitrogen oxide emissions were 21.0 pounds per hour, from the December 10-11, 2014 stack test, in violation of Section D, Source 805, Condition No. 003 of the Permit, and 25 Pa. Code §127.444.

J. On July 22, 2016, the Department issued a Notice of Violation to Erie Coke Corporation for the violation identified in Paragraph I, above.

K. The violation described in Paragraph I, above, constitutes unlawful conduct under Section 8 of the Air Act, 35 P.S. §4008, a statutory public nuisance under Section 13 of the Air Act, 35 P.S. §4013, and subjects Erie Coke Corporation to a claim for civil penalties under Section 9.1 of the Air Act, 35 P.S. §4009.1.

L. As of the date of this Consent Assessment of Civil Penalty, Erie Coke Corporation has corrected the violations identified in Paragraph I, 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 contained 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 **\$16,810**, 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 Paragraph I, above. The payment shall be by corporate check or the like, made payable to "Commonwealth of Pennsylvania Clean Air Fund", and sent to Christina S. Nagy, Regional Manager, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335.

3. **Findings.**

a. Erie Coke Corporation agrees that the Findings in Paragraphs A through L 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.

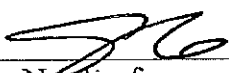
b. The Parties do not authorize any other persons to use the Findings in this Consent Assessment of Civil Penalty in any matter or proceeding.

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, as provided by 18 Pa.C.S. §4904, that he is

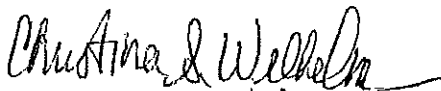
authorized to execute this Consent Assessment of Civil Penalty on behalf of Erie Coke Corporation, that Erie Coke Corporation consents to the entry of this Consent Assessment of Civil Penalty as an ASSESSMENT of the Department; that Erie Coke Corporation hereby knowingly waives any right to a hearing under the statutes referenced in this Consent Assessment of Civil Penalty; and that Erie Coke Corporation knowingly waives their 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. §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.

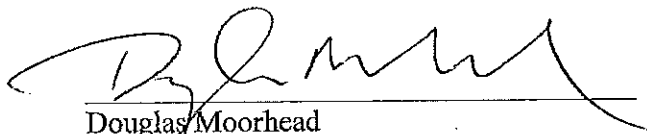
**FOR ERIE COKE CORPORATION:**

  
\_\_\_\_\_  
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. Nagel  
Regional Manager  
Air Quality Program  
Northwest Region

  
\_\_\_\_\_  
Douglas Moorhead  
Regional Counsel



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

**MEMO**

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

**FROM** Lori L. McNabb *JLM*  
Environmental Group Manager  
Air Quality Program

**THROUGH** Christina S. Wilhelm *CSW*  
Program Manager  
Air Quality Program

**DATE** January 5, 2017

**RE** Closure Memo

**NOV DATE** July 25, 2016

**ABATEMENT DATE** January 3, 2017

**High Priority Violator**  Yes  No

**EXPLANATION:**

On July 25, 2016, the Department issued a Notice of Violation to Erie Coke Corporation for exceeding the NOx emissions limit of 21.0 lbs/hour for the coke oven batteries-underfiring system during the December 10-11, 2014 stack test.

On January 3, 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 \$16,810. This penalty was paid in full on December 27, 2016, with check no. 501973.

This case is closed.

cc: ra-epaircompliance@pa.gov



January 5, 2017

Mr. R.G. Wiler  
Environmental Manager  
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. Wiler:

Enclosed please find a copy of the Consent Assessment of Civil Penalty document, as executed by the Department of Environmental Protection on January 3, 2017.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink that reads "Lori L. McNabb". The signature is written in a cursive style with a horizontal line at the end.

Lori L. McNabb  
Environmental Group Manager  
Air Quality Program

Enclosure

cc: D. Moorhead, OCC (via email)  
C. Ballard, OCC (via email)  
AQ/Fac/Case/25-000-00029  
[ra-epaircompliance@pa.gov](mailto:ra-epaircompliance@pa.gov)