

Enf# 362704

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of:

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

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty is entered into this 28th day of March, 2018, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Erie Coke Corporation ("Erie Coke").

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 is a Pennsylvania corporation registered to do business in the Commonwealth of Pennsylvania, with a mailing address of P.O. Box 6180, Erie, PA 16512-6180.
- C. Erie Coke 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 is a "person," as that term is defined in Section 3 of the Air Act, 35 P.S. § 4003.
- E. At the Facility, Erie Coke owns and operates a Coke Oven Battery 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.

F. On March 27, 2013, the Department reissued a Title V Operating Permit No. TV-25-00029 ("Permit") to Erie Coke for the operation of the Coke Oven Battery, and other air contamination sources at the Facility.

G. Pursuant to the compliance requirements of 25 Pa. Code § 127.444, a person may not cause or permit the operation of a source unless the source and air cleaning device are operated and maintained in accordance with the conditions in the operating permit issued by the Department.

H. In accordance with the Permit, Section E, Group Name 7-NESHAP for Coke Ovens, Condition No. 013, Erie Coke shall install, operate and maintain a continuous emission monitoring system to measure and record the opacity of emissions exiting the Coke Oven Battery stack.

I. Erie Coke operates and maintains a continuous emission monitoring system comprised of continuous emission monitor no. 1959, which measures and records the opacity of emissions exiting the Coke Oven Battery Stack.

J. In accordance with the Permit, Section C, Condition No. 004, a person may not permit the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following:

a. Equal to or greater than 20% for a period or periods aggregating more than three minutes in any one hour; or

b. Equal to or greater than 60% at any time.

K. The table below documents the exceedances of the opacity requirements for the continuous emission monitor no.1959 during the third quarter of 2017.

Monitor No.	Opacity Requirements	Date	Duration of Exceedance
1959	No more than 3 min/hr \geq 20%	7/1/17-9/30/17	4612 minutes
	No minutes \geq 60%	7/18/17-9/30/17	202 minutes

L. The table below documents the exceedances of the opacity requirements for the continuous emission monitor no.1959 during the fourth quarter of 2017.

Monitor No.	Opacity Requirements	Date	Duration of Exceedance
1959	No more than 3 min/hr \geq 20%	10/1/17-12/31/17	3318 minutes
	No minutes \geq 60%	10/2/2017-12/28/2017	132 minutes

M. The failure of Erie Coke to comply with the opacity requirement of no emissions equal to or greater than 20 % opacity for a period or periods aggregating more than three minutes in any one hour, or equal to or greater than 60% at any time from the Coke Oven Battery is a violation of 25 Pa. Code § 127.444 and the Permit.

N. The violations described in Paragraph M, above, constitute 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 to a claim for civil penalties under Section 9.1 of the Air Act, 35 P.S. § 4009.1.

O. As of the date of this Consent Assessment of Civil Penalty, Erie Coke has corrected the violations identified 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 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 **\$14,325**, which Erie Coke hereby agrees to pay.

2. *Civil Penalty Settlement.* Erie Coke consents to the assessment of the civil penalty assessed in Paragraph 1, which will be paid in full upon signing this Consent Assessment of Civil Penalty. The payment is in settlement of the Department's claim for civil penalties for the

violations set forth in Paragraph M, above, for the dates set forth in Paragraph K and L, above. The payment shall be by corporate check or the like, made payable to "Commonwealth of Pennsylvania Clean Air Fund", and sent to Eric A. Gustafson, Regional Air Quality Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

3. *Findings.*

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

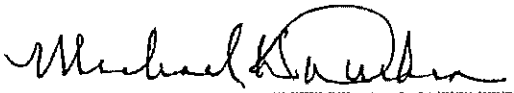
(b) The Parties do not authorize any other persons to use the Findings in this Consent Assessment of Civil Penalty in any matter or proceeding.

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 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 certifies, under penalty of law, 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, that Erie Coke consents to the entry of this Consent Assessment of Civil Penalty as an ASSESSMENT of the Department; that Erie Coke hereby knowingly waives any right to a hearing under the statutes referenced in this Consent Assessment of Civil Penalty; and that Erie Coke knowingly waives their right to appeal this Consent Assessment of Civil Penalty, and to challenge its content or validity, which rights may be

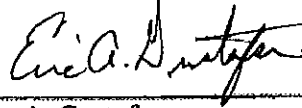
available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa.C.S.A. § 103(a) and Chapters 5A and 7A; or any other provision of law. Signature by Erie Coke's attorney certifies only that the assessment has been signed after consulting with counsel.

FOR ERIE COKE CORPORATION:



Michael K. Durkin
President

FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:



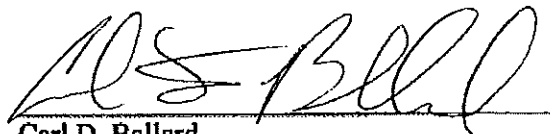
Eric A. Gustafson
Regional Manager
Air Quality Program
Northwest Region



Name Patrick J. Orloff
Title [Secretary or Treasurer]

WAIVED

Louis A. Naugle, Esq.
Attorney for Erie Coke Corporation



Carl D. Ballard
Assistant Counsel



MEMO

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

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

THROUGH Eric A. Gustafson *EAG 3/29/18*
Regional Manager
Air Quality Program

DATE March 29, 2018

RE Closure Memo

NOV DATE No NOV-CEMS violation

ABATEMENT DATE March 28, 2018

High Priority Violator Yes No

EXPLANATION:

Erie Coke Corporation failed to comply with the opacity requirements from the Coke Oven Battery of: no emissions equal to or greater than 20% opacity for a period or periods aggregating more than three minutes in any one hour;
no emissions equal to or greater than 60% at any time.
The violations were confirmed from their Continuous Emission Monitoring System for 3Q2017 and 4Q2017.

On March 28, 2018, the Department and Erie Coke Corporation entered into a Consent Assessment of Civil Penalty in the amount of \$14,325. This penalty was paid in full with check no. 503697.

This case is closed.

cc: ra-epaircompliance@pa.gov



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

March 29, 2018

Mr. William Schneider
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. Schneider:

Enclosed please find a copy of the Consent Assessment of Civil Penalty document, as executed by the Department of Environmental Protection on March 28, 2018.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Lori L. McNabb".

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