



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Air Pollution Control
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, TN 37243**

June 14, 2022

C T Corporation System
300 Montvue Road
Knoxville, Tennessee 37919-5546

Certified Article Number

9414 7266 9904 2198 3511 74

SENDER'S RECORD

RE: BAE Systems Ordnance Systems Inc.
File ID. 37-0028
Case No. APC22-0023

Dear Sir or Madam:

Enclosed, please find an Order and Assessment of Civil Penalty issued by Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, Tennessee Department of Environment and Conservation (TDEC), in the above-referenced matter. Please read it carefully and pay special attention to the Notice of Rights section.

If you have any questions regarding this Order and Assessment of Civil Penalty, please contact William F. Miller at (615) 532-0136 or via e-mail at William.F.Miller@tn.gov. For all other questions, please contact the TDEC Division of Air Pollution Control at (615) 532-0554 or via e-mail at air.pollution.control@tn.gov.

Sincerely,

A handwritten signature in blue ink, reading "Kevin McLain", is positioned above the typed name.

Kevin McLain
Section Manager, Enforcement
Division of Air Pollution Control

vom

Enclosure

TENNESSEE AIR POLLUTION CONTROL BOARD

IN THE MATTER OF:)	DIVISION OF AIR POLLUTION
)	CONTROL
)	
BAE SYSTEMS ORDNANCE)	
SYSTEMS INC.,)	
)	
)	
RESPONDENT.)	CASE NO. APC22-0023

TECHNICAL SECRETARY'S ORDER AND ASSESSMENT OF CIVIL PENALTY

Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, states:

PARTIES

I.

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board ("Board") and Director of the Division of Air Pollution Control ("Division"), Tennessee Department of Environment and Conservation ("Department").

II.

BAE Systems Ordnance Systems Inc. ("Respondent") is a foreign corporation formed in Delaware and authorized to do business in the State of Tennessee. Respondent's facility address is 4509 West Stone Drive, Kingsport, Tennessee. Respondent's registered agent for service of process is C T Corporation System, 300 Montvue Road, Knoxville, Tennessee 37919-5546.

AUTHORITY

III.

The Technical Secretary may assess a civil penalty of up to \$25,000 per day for each day of violation of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121 ("Act"), or Tennessee Air Pollution Control Regulations, Tenn. Comp. R. & Regs. 1200-03-01 to -36; 0400-30-01 to -39, ("Rules"). Tenn. Code Ann. § 68-201-116. The Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Rules are violated, and such person may be liable for resulting damages to the State. *Id.*

IV.

Respondent is a “person,” Tenn. Code Ann. § 68-201-102(7), and has violated the Act and Rules.

V.

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof. Tenn. Code Ann. § 68-201-102(1).

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Tenn. Code Ann. § 68-201-102(2). Respondent operates an air contaminant source.

FACTS

VII.

On June 26, 2018, the Technical Secretary issued Title V Major Source operating permit number 568188, (“Permit 568188”), (facility 37-0028), to Respondent, for the manufacturing of explosives. On May 28, 2019, the Technical Secretary issued a modification to Permit 568188. On February 1, 2021, the Technical Secretary issued a reopen for cause to Permit 568188.

VIII.

Condition E21-6 of Permit 568188 states, in pertinent part:

The source shall comply with the Compliance Assurance Monitoring (CAM) Plan submitted with permit application renewal dated December 16, 2013 (Attachment 25).

Attachment 25 states, in pertinent part:

Performance Criteria	
Quality Assurance and Control Practices	The caustic recirculation temperature will be calibrated once per calendar year.

IX.

On December 15, 2021, Division personnel conducted an inspection at Respondent's facility.

X.

On January 12, 2022, the Division sent an e-mail to Respondent that requested Respondent to submit parameter and calibration records for the scrubber that controls the nitrogen oxides emitted by the agile manufacturing (Source 26).

XI.

On January 19, 2022, the requested records were submitted by Respondent to the Division via e-mail. The e-mail included a statement that the temperature meter calibration for this scrubber had not previously been added to the facility's PM system.

XII.

A January 21, 2022, phone call between the Division and Respondent confirmed that the temperature meter calibrations were not performed in 2019, 2020, or 2021.

XIII.

On February 8, 2022, the Division issued a Notice of Violation (NOV) via e-mail to Respondent for the violation identified in paragraphs **XI** and **XII** based on the inspection, subsequent discussions, and record submittal. The NOV required Respondent to perform a temperature meter calibration and submit it to the Division within 60 days of receipt of the NOV. On February 11, 2022, Respondent acknowledged receipt of the NOV via e-mail and submitted the temperature meter calibration, which was conducted on February 8, 2022.

VIOLATIONS

XIV.

By failing to comply with condition E21-6 of Permit 568188, Respondent violated Division Rule 1200-03-09-.02(6), which states, in pertinent part:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.

ORDER AND ASSESSMENT OF CIVIL PENALTY

XV.

Respondent is assessed a civil penalty of \$1,500.00 for violation of the Act and Rules, to be paid to the Department at the following address:

Division of Fiscal Services - Consolidated Fees Section
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 10th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

The civil penalty shall be delivered to the Department on or before the 31st day after receipt of this Order and Assessment of Civil Penalty. The case number, APC22-0023, should be clearly written on all correspondence.

RESERVATION OF RIGHTS

In issuing this Order and Assessment of Civil Penalty, the Department does not implicitly or expressly waive any provision of the Act or Rules promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent(s). The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action(s).

NOTICE OF RIGHTS

The Respondent may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b). To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Technical Secretary within 30 days of the date Respondent received this Order and Assessment or this Order and Assessment becomes final. Any petition for review must be directed to:

Commissioner of the Department of Environment and Conservation
c/o Jenny L. Howard, General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 2nd Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (ALJ) as a contested case hearing. Tenn. Code Ann. § 68-201-108(a); Tenn. Code Ann. § 4-5-301 to -325; Tenn. Comp. R. & Regs. 1360-04-01. Such hearings are legal proceedings in the nature of a trial. Individual respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial respondents (*e.g.*, corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

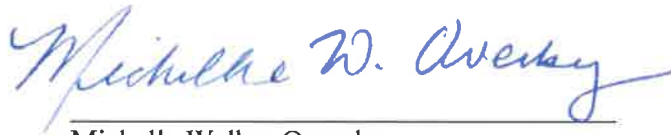
At the conclusion of any initial hearing, the ALJ has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The ALJ, on behalf of the Board, has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing, and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Technical questions and other correspondence involving compliance issues should be sent to:

Kevin McLain, Division of Air Pollution Control
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 15th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

Attorneys should contact the undersigned counsel of record. The case number, APC22-0023, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Tennessee Air Pollution Control Board, Department of Environment and Conservation, on this 14th day of June, 2022.



Michelle Walker Owenby
Technical Secretary
Tennessee Air Pollution Control Board

Reviewed by:



William Freeman Miller
BPR# 28826
Assistant General Counsel
Department of Environment & Conservation
312 Rosa L. Parks Avenue, 2d Floor
Nashville, Tennessee 37243
615-532-0136
William.F.Miller@tn.gov