



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

July 2, 2019

CERTIFIED MAIL

Mr. Mike Ritchey
CS Trucking LLC
6531 McCracken Drive
Dover, Ohio 44622

Re: Final Findings and Orders for air pollution
violations

Dear Mr. Ritchey,

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

A handwritten signature in cursive script that reads "Robert Hodanbosi".

Robert Hodanbosi
Chief, Division of Air Pollution Control

ec: Jim Kavalec, DAPC
Mike Riggleman, Brandon Schwendeman, DAPC
Steve Feldmann, Legal Office
Jessica Kuenzli, SEDO
Lee Tullis, DAPC

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

CS Trucking LLC	:	<u>Director's Final Findings</u>
6531 McCracken Drive	:	<u>and Orders</u>
Dover, Ohio 44622	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to CS Trucking LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the facilities (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent operates a trucking facility located at 6531 McCracken Drive, in Dover, Tuscarawas County, Ohio.
2. ORC § 3704.05(G) prohibits a person from violating any order, rule, or determination of the Director that was issued, adopted, or made under ORC Chapter 3704. Ohio Administrative Code ("OAC") Chapter 3745-80 was adopted by Ohio EPA pursuant to ORC Chapter 3704.

3. "Emission control system" as defined by OAC Rule 3745-80-01(D) means any system designated by the United States Environmental Protection Agency as an emission control system under Title II of the Clean Air Act Amendments and includes any device or element of design of the system.

4. "Tamper with" as defined by OAC Rule 3745-80-01(K), means to remove permanently or temporarily, except for repair, replacement or converting for use of a clean alternative fuel, to bypass, defeat, or render inoperative, in whole or in part, any emission control system that is installed on or in a motor vehicle, for purposes of defeating, bypassing or otherwise circumventing the requirements of the Clean Air Act Amendments or Chapter 3704 of the Revised Code and the rules promulgated thereunder.

5. OAC Rule 3745-80-02(D) states that no person shall knowingly operate a motor vehicle that has been tampered with.

6. OAC Rule 3745-80-02(F) states that no person shall knowingly tamper with any emission control system installed on or in a motor vehicle after sale, lease, or rental and delivery of the motor vehicle to the ultimate purchaser, lessee or renter.

7. ORC § 3704.16(C)(1) states, in part, that no person shall knowingly operate a motor vehicle that has been tampered with if the motor vehicle or motor vehicle engine has been certified by the United States Environmental Protection Agency as meeting federal or California emission control standards.

8. ORC § 3704.16(C)(3) states, in part, that no person shall knowingly tamper with any emission control system installed on or in a motor vehicle after sale, lease, or rental and delivery of the vehicle to the ultimate purchaser, lessee, or renter.

9. On September 5, 2018, Ohio EPA, Southeast District Office ("SEDO") staff conducted an anti-tampering inspection at the aforementioned property, to determine the facility's compliance with Ohio's air pollution laws as found in Chapter 3704 of the Revised Code and the rules promulgated thereunder. During the inspection, thirteen motor vehicles owned and operated by Respondent were examined. Of the thirteen motor vehicles examined, eleven were found to be in a tampered condition, in violation of OAC Rule 3745-80-02(D), OAC Rule 3745-80-02(F), ORC § 3704.16(C)(3) and ORC § 3704.16(C)(1). Respondent was provided a copy of the inspection findings at the conclusion of the inspection and informed that until the necessary repairs are made, and the tampered motor vehicles returned to compliance with Ohio's anti-tampering laws, operating the motor vehicles identified as being in tampered condition is a violation of ORC § 3704.16(C)(1) and OAC Rule 3745-80-02(D). The following table is a summary of the vehicles tampered with and a description of the tampering identified during the September 5, 2018 inspection:

Vehicle Owned and Operated by Respondent (year/make)	Vehicle Identification Number ("VIN")	Description of Tampering Observed
2012 Peterbilt	1NPWL40X6DD185412	Diesel particulate filter ("DPF"), Selective catalytic reduction ("SCR") system and Exhaust Gas Recirculation ("EGR") system
2015 Freightliner	3ALSGN BG5FDGK5304	DPF, EGR system and SCR system
2013 Peterbilt	1NPWL40X8DD185380	DPF, EGR system and SCR system
2013 Peterbilt	1XPWD49X6DD185447	DPF, EGR system and SCR system
2013 Peterbilt	1XPWD49X3DD185440	DPF, EGR system and SCR system
2015 Freightliner	3ALSGN BG3FDGK5303	DPF, EGR system and SCR system
2011 Peterbilt	1NPW14TX3BD123264	DPF, EGR system and SCR system
2013 Peterbilt	1XPWD49X2DD185445	DPF, EGR system and SCR system
2012 Peterbilt	1NPWL4TX3CD133844	DPF, EGR system and SCR system
2012 Peterbilt	1NPWL4TX5CD133845	DPF, EGR system and SCR system
2012 Peterbilt	1NPWL4TXXCD133842	DPF, EGR system and SCR system

10. By letter dated November 8, 2018, Respondent was issued a Notice of Violation ("NOV") for the violations discovered during the September 5, 2018 inspection. The NOV letter requested that within fourteen (14) days from receipt of the letter that Respondent submit a corrective action plan detailing a timely schedule in which the tampered motor vehicles will return to compliance with Ohio's anti-tampering laws and how the violations will be avoided in the future.

11. By letter dated November 27, 2018, Respondent replied to the November 8, 2018 NOV letter from SEDO. In the letter, Respondent indicated that two of the motor vehicles found to be in a tampered condition during the September 5, 2018 anti-tampering inspection had been repaired (motor vehicles with VINs 1NPW14TX3BDD123264 and 1XPWD49X3DD185440). The repairs included the reinstallation of the DPF and SCR system for each motor vehicle. These two motor vehicles were manufactured with EGR systems, which were not installed on the motor vehicles at the time of the September 5,

2018 inspection. The absent ERG systems were noted in the inspection report that Respondent received at the conclusion of the September 5, 2018 inspection.

12. In the November 27, 2018 response letter, Respondent indicated that repairs would be made to two tampered motor vehicles per month with all repairs being completed no later than the end of March 2019. The repairs would consist of the reinstallation of the DPF and SCR systems for each of the eleven tampered motor vehicles identified during the September 5, 2018 inspection.

13. Subsequent to Respondent's November 27, 2018 response letter, Respondent determined that additional repairs would be needed on the motor vehicles in order to have the emission control system fully functional.

14. On April 19, 2019, Respondent provided Ohio EPA a complete inventory of all vehicles operating in Ohio. As of April 19, 2019, Respondent has a total of thirty-four (34) motor vehicles operating in Ohio. Of the thirty-four (34) motor vehicles, Respondent identified a total of eighteen (18) motor vehicles that needed additional repairs to allow for the emission control equipment to be operational in order to comply with ORC § 3704.16(C)(1) and OAC Rule 3745-80-02(D). The following table is a summary of the motor vehicles needing additional repairs:

Vehicle Owned and Operated by Respondent (year/make)	Vehicle Identification Number ("VIN")
2011 Peterbilt	1NPWL4TX3BD123264
2011 Peterbilt	1NPWL4TX5BD123265
2011 Peterbilt	1NPWL4TX3BD129386
2011 Peterbilt	1NPWL4TX7BD129388
2012 Peterbilt	1NPWL4TXXCD133842
2012 Peterbilt	1NPWL4TX3CD133844
2012 Peterbilt	1NPWL4TX5CD133845
2012 Peterbilt	1NPWL4TX7CD133846
2013 Peterbilt	1XPWD49X7DD185439
2013 Peterbilt	1XPWD49X3DD185440
2013 Peterbilt	1XPWD49X5DD185441
2013 Peterbilt	1XPWD49X7DD185442
2013 Peterbilt	1XPWD49X9DD185443
2013 Peterbilt	1XPWD49X0DD185444
2013 Peterbilt	1XPWD49X2DD185445
2013 Peterbilt	1XPWD49X4DD185446
2013 Peterbilt	1XPWD49X6DD185447
2013 Peterbilt	1XPWD49X8DD185448

15. Respondent has ordered ten (10) new motor vehicles which will replace some of the motor vehicles identified in Finding 14.

16. On June 18, 2019, Respondent provided documentation that the following motor vehicles have had the DPF, EGR system and SCR system restored back to the original manufacturer configuration:

Vehicle Owned and Operated by Respondent (year/make)	Vehicle Identification Number ("VIN")	Repair or Replacement Date
2011 Peterbilt	1NPWL4TX3BD123264	May 30, 2019
2011 Peterbilt	1NPWL4TX5BD123265	May 16, 2019
2012 Peterbilt	1NPWL4TXXCD133842	May 16, 2019
2012 Peterbilt	1NPWL4TX3CD133844	May 16, 2019
2012 Peterbilt	1NPWL4TX7CD133846	May 16, 2019
2013 Peterbilt	1XPWD49X3DD185440	May 31, 2019
2011 Peterbilt	1NPWL4TX3BD129386	May 31, 2019
2011 Peterbilt	1NPWL4TX7BD129388	May 31, 2019
2013 Peterbilt	1XPWD49X7DD185439	May 31, 2019
2013 Peterbilt	1XPWD49X8DD185448	June 10, 2019

17. On June 18, 2019, Respondent provided documentation that the following motor vehicle was involved in an accident and will likely not be placed back into service by Respondent:

2012 Peterbilt	1NPWL4TX5CD133845
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18. The Director has given consideration to, and based her determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. The DPF, EGR system and SCR system for each motor vehicle identified in Finding 14 of these Findings and Orders shall be restored back to the original manufacturer configuration or the motor vehicle must be replaced by one of the new motor vehicles in accordance with the following schedule:

Vehicle Owned and Operated by Respondent (year/make)	Vehicle Identification Number ("VIN")	Repair or Replacement Date
2013 Peterbilt	1XPWD49X5DD185441	July 31, 2019
2013 Peterbilt	1XPWD49X7DD185442	July 31, 2019
2013 Peterbilt	1XPWD49X9DD185443	July 31, 2019
2013 Peterbilt	1XPWD49X0DD185444	July 31, 2019
2013 Peterbilt	1XPWD49X2DD185445	August 31, 2019
2013 Peterbilt	1XPWD49X4DD185446	August 31, 2019
2013 Peterbilt	1XPWD49X6DD185447	August 31, 2019

2. Respondent must submit proof of the repairs to the motor vehicles restored back to the original manufacturer configuration to Ohio EPA, SEDO. For those vehicles identified in Finding 14 which Respondent replaced with a new vehicle, Respondent must submit proof of the replacement, including identification of the VIN number for the motor vehicle that is taken out of service.

3. With regard to any of the motor vehicles identified in Finding 17 or Order 1 that are taken out of service by Respondent, in compliance with OAC 3745-80-02(E), Respondent shall not operate, sell, lease, rent or offer to sell, lease, or rent or offer to transfer title or a right to possession of such motor vehicle unless the motor vehicle emission control system is installed and operational.

4. Respondent shall pay the amount of forty-five thousand dollars (\$45,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for forty-five thousand dollars (\$45,000). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-77-01(JJ)(1) for a corporation, or a corporate officer who is in charge of a principal business function of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA
Southeast District Office
Air Pollution Control Division
2195 Front Street
Logan, Ohio 43138-8637
Attention: Jessica Kuenzli

and to:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: James Kavalec

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Laurie A. Stevenson
Laurie A. Stevenson
Director

6/28/19
Date

AGREED:

CS Trucking LLC

MAR
Signature

6/26/2019
Date

Mike Ritchey
Printed or Typed Name

President
Title