



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

OCT 09 2018

VIA CERTIFIED MAIL 7002 0510 0002 5821 9277

Gregory L. Houlihan, Registered Agent
Houlihan Lawn Mower Sales & Service, LLC
1186 S 700 W
Wabash, IN 46992

Re: Adoption and Resolution of Agreed Order-
Commissioner of the Department of
Environmental Management

v.

Houlihan Lawn Mower Sales & Service, LLC
Wabash, Wabash County
Case No. 2018-25544-A

Dear Mr. Houlihan:

This is to inform you that the Agreed Order in the above-referenced case has been approved and adopted by the Indiana Department of Environmental Management. A copy of the Agreed Order is enclosed. Please note that the civil penalty has been received and will be deposited in the Environmental Management Special Fund. Thank you for your cooperation.


The terms and conditions of the Agreed Order in the above-referenced case have been met and this case is considered closed by IDEM's Office of Air Quality, Compliance and Enforcement Branch. Additional enforcement action may be initiated if compliance with the applicable rules and permits is not maintained.

IDEM strongly encourages the use of pollution prevention techniques to reduce pollution emitted to the environment and to conserve resources such as water and energy. Implementation of such techniques can decrease manufacturing costs/overhead, increase worker safety, and perhaps lessen the impact of environmental regulations upon your operation. For more information on pollution prevention or to schedule a free, confidential pollution prevention opportunity assessment, call the Programs and Compliance Branch at IDEM's Office of Program Support at (800) 988-7901 or visit <http://www.in.gov/ideM/prevention/>.

If you have any questions concerning this action, please contact Clare Parker at (317) 234-1454 or cparker@idem.in.gov.



Sincerely,

A handwritten signature in black ink, appearing to read "Phil Perry".

Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality

Enclosure

cc: Wabash County Health Department
Deborah A. Cole, Compliance and Enforcement Branch, Office of Air Quality
Wyman Clark, Compliance and Enforcement Branch, Office of Air Quality
<http://www.IN.gov/idep>



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Respondent Name: Houlihan Lawn Mower Sales & Service, LLC
Case Number: 2018-25544-A

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to IC 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner ("Complainant") of the Indiana Department of Environmental Management ("IDEM"), a department of the State of Indiana created by Indiana Code ("IC") 13-13-1-1.
2. Respondent is Houlihan Lawn Mower Sales & Service ("Respondent"), which owns and operates the company located at 1186 S 700 W in Wabash, Wabash County, Indiana ("Site").
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") via certified mail to:

Gregory L. Houlihan, Registered Agent
Houlihan Lawn Mower Sales & Service, LLC
1186 S 700 W
Wabash, IN 46992

5. At the time of an inspection conducted on July 24, 2018, the following violation was in existence or observed at the Site by a representative of IDEM's Office of Air Quality ("OAQ").

- a. Pursuant to 326 IAC 4-1, open burning is prohibited unless exempted or allowed by rule, or an approval is obtained.

On July 24, 2018, Respondent engaged in open burning of wood crates and spools of plastic-wrapped cable, in violation of 326 IAC 4-1.

6. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is adopted via signature by Complainant or Complainant's delegate, and the adopted Agreed Order has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date. This offer to settle the allegations contained in this Agreed Order does not bind or obligate the parties of this enforcement action if the Agreed Order is not adopted.
2. Respondent is assessed a civil penalty of Five Hundred Dollars (\$500.00). Respondent shall pay said penalty amount no later than fifteen (15) days after the Effective Date ("Due Date"). In the event that the civil penalty is not paid by the Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1-101.
3. In the event the terms and conditions of this Agreed Order are violated, Complainant may seek additional relief.
4. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

IDEM Office of Legal Counsel
IGCN, Rm N1307
100 N Senate Ave
Indianapolis, IN 46204

5. This Agreed Order shall apply to and be binding upon Respondent and its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.

6. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
7. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permit or any applicable Federal or State law or regulation.
8. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation.
9. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the NOV.
10. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the EPA or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the EPA or any other agency or entity.
11. The parties were free to consult with their respective counsel regarding entry into this Agreed Order to the extent each deemed necessary.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

TECHNICAL RECOMMENDATION:
Department of Environmental
Management

By: David P. McIver
David P. McIver, Chief
Enforcement Section
Office of Air Quality

Date: 8-16-18

RESPONDENT:*
Houlihan Lawn Mower Sales & Service, LLC

By: Gregory L. Houlihan

Printed: Gregory L. Houlihan

Title: owner

Date: 9-25-18

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS

5th DAY OF October, 20 18

For the Commissioner:

By: Matthew Stuckey
Matthew Stuckey, Deputy Assistant
Commissioner
Office of Air Quality
Indiana Department of Environmental
Management

* In the event that Respondent does not accept the settlement offer contained in this Agreed Order, IDEM notes that this document is a qualified offer of settlement, and therefore Rule 408 of Indiana Rules of Evidence applies to this document, rendering it inadmissible.