



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

April 5, 2012

James C. Morriss III  
Thompson & Knight LLP  
98 San Jacinto Boulevard, Suite 1900  
Austin, TX 78701

Re: Notice of Determination – EPA Docket Number CAA 06-2012-3312  
Mentor Corporation Self-Disclosure on April 8, 2011

Dear Mr. Morriss:

Enclosed is a Final Determination of the U.S. Environmental Protection Agency (EPA), Region 6 on the applicability of EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" 65 Fed. Reg. 19618 (April 11, 2000) (Self-Disclosure Policy) to the voluntary disclosures made to EPA by Mentor Corporation (Mentor) regarding violations associated with the Texas air permitting program for minor sources and the facility's Texas minor source permit, Permit No. 20105.

Based upon the documentation provided by Mentor, EPA finds that Mentor has not met all nine (9) conditions of the Self-Disclosure Policy. Specifically, Mentor has not met condition number five (5) (Correction and Remediation), because the violations were not corrected within sixty (60) days of discovery, or as expeditiously as possible. Therefore, the violations do not qualify for penalty mitigation under the Self-Disclosure Policy. However, EPA has used its discretion to determine not to assess and collect a penalty.

EPA expects Mentor to institute, on a continuing and company-wide basis, the internal policies and procedures necessary to prevent a recurrence of a failure to meet environmental requirements.

On behalf of the Region, I want to thank Mentor for their self-disclosure. Should you have any further questions or need additional information, please contact Ryan Rosser at (214) 665-2247, or Leonard Schilling at (214) 665-7166 for any legal questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins".

John Blevins  
Director

Compliance Assurance and  
Enforcement Division

Enclosure

cc: Michael de la Cruz

Texas Commission on Environmental Quality

Internet Address (URL) • <http://www.epa.gov>

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

IN THE MATTER OF

MENTOR CORPORATION

DOCKET NO. CAA 06-2012-3312

TEXAS

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**FINAL DETERMINATION**

Pursuant to the "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" (65 Fed. Reg. 19618, April 11, 2000) (Self-Disclosure Policy), the U.S. Environmental Protection Agency, Region 6 (EPA) hereby issues a Final Determination regarding violations disclosed to EPA by the Mentor Corporation (Mentor) at its facility in Irving, Texas.

**I. SELF-DISCLOSURE POLICY**

In order to encourage regulated entities to conduct voluntary compliance evaluations and also disclose and correct violations, EPA promulgated the Self-Disclosure Policy. As an incentive for companies to participate in the self-audit/self-disclosure terms of the Self-Disclosure Policy, EPA may substantially reduce and even eliminate the gravity component of civil penalties if the conditions specified in the Self-Disclosure Policy are met.

The conditions are as follows:

- (1) Discovery of the violation(s) through an environmental audit or due diligence;
- (2) Voluntary discovery;
- (3) Prompt disclosure;
- (4) Discovery and disclosure independent of government or third party plaintiff;
- (5) Correction and remediation;
- (6) Prevent recurrence;

- (7) No repeat violations;
- (8) Other violations excluded; and
- (9) Cooperation.

Pursuant to the Self-Disclosure Policy, EPA may reduce gravity based penalties up to 100% if the participating companies meet the conditions specified above. However, EPA may collect any economic benefit that may have been realized as a result of noncompliance.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Mentor owns and operates a surgical implant manufacturing plant in Irving, Texas (the "Facility").

2. On April 8, 2011, Mentor disclosed the following potential violations of the Texas State Implementation Plan and Mentor's minor source permit, Permit 20105:

**Recordkeeping for Permits-by-Rule** - 30 TAC § 106.8(c) (recordkeeping requirements for PBRs); 30 TAC §§ 106.261 and 106.262 (PBR for de minimus facilities); 30 TAC § 106.183 (PBR for gas-fired water heaters)

**Recordkeeping for Uncontrolled Vent Gas** - 30 TAC §§ 115.126(3) and 115.126(4) (monitoring and recordkeeping requirements)

**Unauthorized Emissions and Deviations from Representations** - 30 TAC § 116.110; Permit 20105 General Conditions 1 and 9, and Specific Conditions 2, 5 and 7; 30 TAC § 116.111(a)(2)(G); 30 TAC § 116.116

**Notification to TCEQ** - 30 TAC § 116.110; Permit 20105 General Conditions 3 and 4

3. According to the April 8, 2011 disclosure, Mentor identified the potential violations in Paragraph 2 on or after March 18, 2011 as part of a third-party environmental compliance audit of the air permitting program at the Facility. Mentor planned to address the potential violations by, among other things, submitting an application for a permit amendment to the Texas Commission on Environmental Quality (TCEQ) by April 30, 2011.

4. In subsequent telephone conversations and e-mail correspondence with Mentor, EPA agreed to allow Mentor until June 3, 2011 to submit the application for a permit amendment and complete the other corrective measures listed in the April 8, 2011 disclosure.

5. Mentor did not submit the application for a permit amendment on June 3, 2011, but instead submitted an application for a permit alteration, which the TCEQ rejected.

6. Mentor submitted an application for a permit amendment on November 2, 2011.

7. Mentor did not meet all of the conditions of the Self-Disclosure Policy.

Specifically, Mentor did not meet condition number five (5) (Correction and Remediation) of the Self-Disclosure Policy because Mentor did not correct the violations within 60 calendar days from the date of discovery, or as expeditiously as possible.

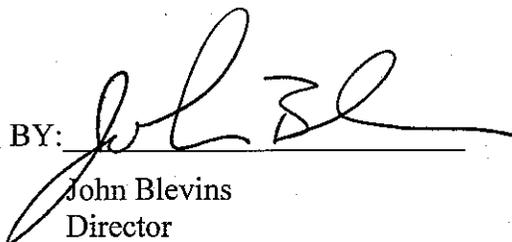
8. Therefore, the violations do not qualify for consideration under the Self-Disclosure Policy.

**III. FINAL DETERMINATION**

EPA has reviewed the violations specified above and has reviewed the documentation provided by Mentor in which Mentor asserts its compliance with the Self-Disclosure Policy. Based upon the information and assertions provided by Mentor, EPA finds that Mentor has not met all nine (9) conditions pursuant to the Self-Disclosure Policy. Therefore, the violations disclosed do not qualify for penalty mitigation under the Self-Disclosure Policy.

**U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 6**

DATED: 4.5.12

BY:   
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division