

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

American Color Graphics, Inc.	:	<u>Director's Final Findings</u>
620 East Smith Road	:	<u>and Orders</u>
Medina, Ohio 44256	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to American Color Graphics, Inc. ("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 the Respondent or of the facility (as hereinafter identified) 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 has determined the following findings:

1. Respondent is in the printing business, employing heatset web offset and flexographic printing presses to produce color advertisements found as inserts in newspapers and mail box stuffers. Respondent's facility is located at 620 East Smith Road, Medina, Medina County, Ohio. At this facility, Respondent operates three heatset web offset printing presses, which are identified by Ohio EPA as emissions units K002, K003 and K005. Emissions units K002 and K003 were installed and began operation in the 1980's. Emissions unit K005 was installed and began operation in 2002. Respondent has corporate offices located at 100 Winners Circle, Brentwood, Tennessee.

2. Each of the above-referenced emissions units is an "air contaminant source" as defined in OAC Rules 3745-15-01(C) and (W), 3745-31-01(I), and 3745-35-01(B)(1), and ORC § 3704.01(C).
3. Prior to September 8, 2004, emissions units K002 and K005 were controlled by a Thermo-Electron oxidizer and emissions unit K003 was controlled by a CVM thermal oxidizer.
4. Respondent was issued a Federally Enforceable Synthetic Minor Permit to Install [("FESMPTI"), PTI #16-02191] on July 2, 2002 for emissions units K002, K003 and K005 pursuant to OAC Chapter 3745-31. A FESMPTI restricts the production rates and/or hours of operation so that Respondent could reduce potential emissions of volatile organic compounds ("VOC") to below Title V applicability thresholds and avoid Title V permitting requirements. As required by its FESMPTI, Respondent was to demonstrate compliance with the 90 percent, by weight, VOC emission destruction efficiency limitation for these heatset web offset printing presses by performing emission tests by March 12, 2003.
5. ORC § 3704.05(C) prohibits the violation of any term and condition of a permit.
6. On March 5, 2003, Respondent attempted to conduct a stack test; however, this stack test was aborted due to testing equipment contamination.
7. On March 22, 2003, another stack test was attempted by Respondent; however, this stack test was also aborted due to a press scheduling issue.
8. By e-mails dated April 30 and May 15, 2003, Respondent informed Akron Regional Air Quality Management District ("ARAQMD"), a contractual representative of Ohio EPA in the Medina County, that it would delay emission tests for emissions units K002, K003 and K005 until June 2003 due to major rebuilds for these presses.
9. On May 8, 2003, ARAQMD sent a notice of violation ("NOV") citing Respondent for its failure to conduct a stack test for emissions units K002, K003 and K005 by March 12, 2003 as required by the FESMPTI, in violation of the terms and conditions of the FESMPTI and ORC § 3704.05(C).
10. Respondent replied to the May 8, 2003 NOV with an e-mail dated May 27, 2003. In this e-mail, Respondent informed ARAQMD that it planned to conduct the required stack test between August 18 and September 15, 2003.
11. On August 26, 2003, Respondent conducted a stack test for emissions unit K003 which yielded a VOC emission destruction efficiency of 68.8%, by weight. Respondent was in violation of the terms and conditions of the FESMPTI, and ORC § 3704.05(C).

12. On September 23, 2003, Respondent conducted stack tests for emissions units K002 and K005. The stack test results met the VOC emission destruction efficiency limitation of 90%, by weight, as required in the FESMPTI.

13. On December 12, 2003, Respondent conducted a follow-up stack test for emissions unit K003 which yielded a VOC emission destruction efficiency of 73.1%, by weight. Again, Respondent was in violation of the terms and conditions of the FESMPTI, and ORC § 3704.05(C).

14. On February 2, 2004, ARAQMD sent a letter reminding Respondent of its failure to meet the 90% destruction efficiency limitation and requesting Respondent to submit a detailed compliance plan and schedule to rectify the stack testing problem.

15. On March 11, 2004, Respondent replied to the ARAQMD's February 2, 2004 letter by submitting the required compliance plan and schedule. Respondent proposed to install a new common thermal oxidizer that would control emissions units K002, K003 and K005.

16. On September 1, 2004, Respondent completed installation of the new thermal oxidizer to control emissions units K002, K003 and K005.

17. On November 18, 2004, Respondent conducted an emissions test for the new thermal oxidizer. The stack test yielded a VOC emission destruction efficiency of 99.7%, which satisfied the 90% destruction efficiency limitation as required in the FESMPTI.

18. The Director has given consideration to, and based his 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. Respondent shall pay the amount of thirteen thousand two hundred dollars (\$13,200) 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 ten thousand five hundred and sixty dollars (\$10,560) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA

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

2. In lieu of paying the remaining two thousand six hundred and forty dollars (\$2,640) of civil penalty, Respondent shall, within thirty (30) days after the effective date of these Orders, fund a Supplemental Environment Project ("SEP") by making a contribution in the amount of \$2,640 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$2,640. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address.

3. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

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

4. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$2,640 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

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, the operation of Respondent's facility.

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:

Akron Regional Air Quality Management District
146 South High Street, Room 904
Akron, Ohio 44308
Attention: Frank Markunas

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Thomas Kalman, Manager, Enforcement Section

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 specially 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 agrees 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 said 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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Joseph P. Koncelik
Director

Date

IT IS SO AGREED:

American Color Graphics, Inc.

Signature

Date

Printed or Typed Name

Title