

OHIO E.P.A.

BEFORE THE

AUG 21 2001

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Ameri-Cal Corporation	:	<u>Director's Final Findings</u>
1001 Lake Road	:	<u>and Orders</u>
Medina, Ohio 44256	:	

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ameri-Cal Corporation pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under R.C. 3704.03 and 3745:01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Ameri-Cal Corporation, its assigns and successors in interest.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in R.C. Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings of fact:

1. Ameri-Cal Corporation ("Ameri-Cal") owns and operates a paper coating line located at 1001 Lake Road, Medina, Medina County, Ohio. The line consists of a knife-over-roll adhesive coater with a drying oven. It is used to coat and cure adhesive vinyl and polyester laminates to paper substrates. The paper coating line is identified by Ohio EPA application number 1652050083 K001 ("source K001"). The exhausts from coater and oven are vented to a catalytic oxidizer.

2. Source K001 is an "air contaminant source" as defined by Ohio Administrative Code ("OAC") Rule 3745-15-01 and is subject to the volatile organic compound ("VOC") emission limitation (i.e., 2.9 pounds of VOC per gallon of coating, excluding water and exempt solvents) set forth in OAC Rule 3745-21-09(F).

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3. R.C. 3704.05(C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA. R.C. 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA.

4. Pursuant to OAC Rule 3745-35-07, owners or operators of sources subject to Title V permitting requirements due only to potential emissions, could apply for and obtain Federally Enforceable State Operating Permits ("FESOPs"), which restrict production rates and /or hours of operation, that could reduce potential emissions to below Title V applicability thresholds and avoid Title V permitting requirements. Such FESOP applications were required to be filed by the deadlines in OAC Rule 3745-77-04 for Title V sources.

5. The potential to emit of Ameri-Cal's facility for calendar years 1993 through 1997 for toluene exceeded the 10 tons per year ("TPY") individual hazardous air pollutant ("HAP") threshold level and made Ameri-Cal's facility a major source. Ameri-Cal filed a FESOP application with Ohio EPA on June 20, 1997, and a FESOP was issued by Ohio EPA to Ameri-Cal on October 29, 1998.

6. The FESOP for source K001 restricts the total HAP emissions for any individual HAP to 9.0 TPY and for combined HAPs to 24 TPY, both as a rolling, 12-month summation. Section C.1 of the FESOP requires Ameri-Cal to operate and maintain continuous temperature monitors and recorders, which measure and record the temperature immediately upstream and downstream of the incinerator's catalyst bed when the emissions unit is in operation. This FESOP and OAC Rule 3745-21-09(B)(3) require Ameri-Cal to do record keeping and reporting of the coatings usage, VOC emissions, and average temperatures for the catalyst bed. Also, the FESOP requires Ameri-Cal to do record keeping and reporting of both individual and combined HAPs as stated in Section C.3 and Sections D.4 through D.6. In addition, this FESOP requires Ameri-Cal to submit the required temperature deviation reports as stated in Sections D.2 and D.3 and to conduct a stack test for VOC emissions within 6 months after issuance of the FESOP and within 6 months of the expiration of the FESOP.

7. On July 13, 1999, the Akron Regional Air Quality Management District ("ARAQMD"), the contractual representative of Ohio EPA in Medina County, inspected the Ameri-Cal facility. At this inspection, ARAQMD documented that Ameri-Cal had failed to maintain daily records of all coatings employed since issuance of the FESOP, as part of its demonstration of compliance with OAC Rule 3745-21-09(F), in violation of OAC Rule 3745-21-09(B)(3) and R.C. 3704.05(C). At this inspection, ARAQMD noticed that Ameri-Cal had also failed to conduct a stack test within 6 months after the issuance of the permit on October 29, 1998 to demonstrate compliance with the allowable mass emission rate for VOC, in violation of R.C. 3704.05(C). Further, ARAQMD noticed that from October 29, 1998 to July 13, 1999, Ameri-Cal had failed to submit the required catalytic oxidizer temperature deviation reports, in violation of R.C. 3704.05(C). Also, ARAQMD found other

deficiencies that occurred since the FESOP was issued such as: (1) individual and combined HAP emissions had not been calculated and recorded, and (2) the annual reports for both combined and individual HAP emissions had not been submitted, in violation of R.C. 3704.05(C).

8. On July 14, 1999, ARAQMD sent Ameri-Cal a notice of violation, which cited the violations that were observed during the July 13, 1999 inspection of the facility. In this NOV, ARAQMD requested Ameri-Cal to submit a complete compliance plan and time schedule within fourteen days as well as (1) the annual reports for both combined and individual HAP emissions, (2) the required temperature deviation reports as stated in Sections D.2 and D.3 of the FESOP, and (3) an "Intent to Test" notification to conduct a stack test for source K001.

9. On July 27, 1999, Ameri-Cal submitted to ARAQMD a letter as well as the compliance plan and time schedule required in ARAQMD's July 14, 1999 letter. Ameri-Cal informed ARAQMD that it had implemented the required record keeping pursuant to its FESOP. Ameri-Cal also submitted to ARAQMD the "Intent to Test" notification, which proposed a test date of September 15, 1999. According to this letter, from October 29, 1998 to February 15, 1999, Ameri-Cal had not employed a chart recorder for recording temperatures of the oxidizer, in violation of Section C.1 of the FESOP and R.C. 3704.05(C).

10. On October 7, 1999, Ameri-Cal submitted to ARAQMD a revised "Intent to Test" notification which changed the proposed test date from September 15, 1999 to November 2, 1999.

11. On October 28, 1999, Ameri-Cal submitted to ARAQMD the required monitoring and record keeping for the items outlined in Sections C.1 through C.3 of the FESOP for the last quarter of 1998 and the first three quarters of 1999. Ameri-Cal also confirmed with ARAQMD that the proposed test date was still November 2, 1999.

12. On December 1, 1999, Ameri-Cal submitted to ARAQMD the result of the November 2, 1999 stack test. In this submittal, Ameri-Cal pointed out to ARAQMD that the results were partly inaccurate because the average capture efficiency was 247.77 percent. The submittal also revealed that the destruction efficiency was 99.23 percent. Further, the submittal indicated that the actual VOC emission, which tested at 4.0 pounds of VOC per gallon of solids, complied with the 4.8 pounds of VOC per gallon of solids limitation as specified in the FESOP. Also, Ameri-Cal requested a 30-day extension from ARAQMD in order to rectify the stack test problem for the purpose of retesting the destruction efficiency. ARAQMD approved this 30-day extension request.

13. On December 29, 1999, Ameri-Cal requested another 30-day extension from ARAQMD in order for Ameri-Cal to correct its stack test problem. The request for a 30-day extension was approved by ARAQMD.

14. On January 23, 2000, Ameri-Cal submitted the required quarterly report, which included the temperature excursions of the oxidizer, daily recordings of coating usage, chart records for times and temperatures for October, November and December, 1999, and the annual reports that specified the total individual HAP and combined HAPs emissions for the 1999 calendar year.

15. On May 31, 2000, Ameri-Cal conducted a retest of source K001. The result of the stack test indicated that the permanent total enclosure had a capture efficiency of 100 percent.

16. On November 28, 2000, ARAQMD confirmed to Ohio EPA that Ameri-Cal had corrected the violations that were originally outlined in ARAQMD's July 14, 1999 letter.

17. On March 23, 2001, proposed Director's Final Findings and Orders ("DFF&Os") were sent to Ameri-Cal for the above-mentioned violations.

18. On May 2, 2001, Ameri-Cal met with Ohio EPA to discuss the DFF&Os. Ameri-Cal and Ohio EPA could not settle the matter administratively because Ameri-Cal needed time to submit additional information in order to support its claim for an "Inherent Physical Limitation," which would allow it to avoid Title V permitting requirements. In order to be granted the status of an "Inherent Physical Limitation," a demonstration must be made to Ohio EPA that the annual emissions of any criteria pollutant are less than twenty percent (20%) of 100 TPY (i.e., 20 TPY) and less than twenty percent (20%) of 10 TPY (i.e., 2 TPY) for any one HAP or less than twenty percent (20%) of 25 TPY (i.e., 5 TPY) of combined HAPs. Past records revealed that Ameri-Cal's annual emissions of any criteria pollutant are less than 3 TPY.

19. On May 20, 2001, Ameri-Cal submitted the records of its annual emissions for all the HAPs for the years from 1993 through 1997. Based on these records, the single HAP emissions were in the range from 0.98 to 2.0 TPY and the combined HAPs were ranging from 1.09 to 2.57 TPY. Based on this information, Ohio EPA concluded that Ameri-Cal has an "Inherent Physical Limitation" and is not subject to Title V permitting requirements.

20. 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. Ameri-Cal shall maintain compliance with OAC Rule 3745-21-09(B)(3) and the terms and conditions of any FESOP issued by Ohio EPA for source K001.

2. Pursuant to R.C. 3704.06, Ameri-Cal is assessed a civil penalty in the amount of twenty-three thousand and five hundred dollars (\$23,500) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, Ameri-Cal shall pay to Ohio EPA the amount of eighteen thousand and eight hundred dollars (\$18,800) of the total penalty amount. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to Vicki Galilei, Fiscal Specialist, or her successor, at the following address:

Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

The remaining four thousand and seven hundred dollars (\$4,700) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Ameri-Cal shall deliver a certified check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban area tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry
Ohio Department of Natural Resources
1855 Fountain Square Court, H-1
Columbus, Ohio 43224-1327

A copy of both checks shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. 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 Ameri-Cal.

VII. NOTICE

All documents required by these Orders, unless otherwise specified by Ohio EPA in writing, shall be addressed to:

Akron Regional Air Quality Management District
Attn: Sean Vadas
Citicenter - Suite 904
146 South High Street
Akron, Ohio 44308

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Attn: Thomas Kalman
P.O. Box 1049
Columbus, Ohio 43216-1049

VIII. RESERVATION OF RIGHTS

Nothing contained herein prevents Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Ameri-Cal for noncompliance with these Orders. Nothing contained herein prevents Ohio EPA from exercising its lawful authority to require Ameri-Cal to perform additional activities pursuant to R.C. Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of Ameri-Cal to raise any administrative, legal, or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of Ameri-Cal.

IX. SIGNATORIES

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 this document.

X. WAIVER

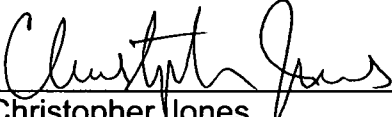
In order to resolve disputed claims, without admission of fact, violation or liability, Ameri-Cal agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Ameri-Cal's civil liability for the specific violations cited herein. Ameri-Cal hereby waives the right to appeal the issuance, terms and service of

these Orders and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

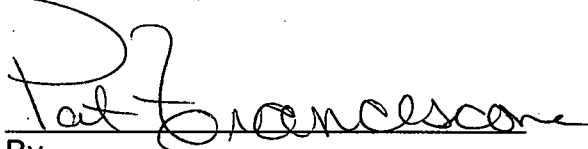


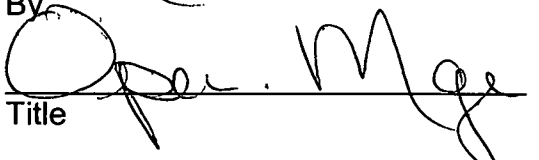
Christopher Jones
Director

8-10-01
Date

IT IS AGREED:

Ameri-Cal Corporation



By


Title

08-06-01
Date