



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



LIESL EICHLER CLARK
DIRECTOR

Enforcement Summary for Graphic Packaging International, LLC

October 24, 2022

The Michigan Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD) can take an enforcement action when air quality rules and regulations are not followed by businesses, governments, and individuals across the state. The AQD is taking an enforcement action against Graphic Packaging International, LLC (Company) because the company did not follow air quality rules and regulations by emitting odors from its facility that created an unreasonable interference with the comfortable enjoyment of life and property in the surrounding area and by beginning construction of two new boilers before obtaining a Permit to Install (PTI). The AQD is proposing that the alleged violations be resolved through a Consent Order with the Company. A summary of the enforcement action is below.

This public comment period gives the public an opportunity to review the proposed Consent Order and provide comments to the AQD. The AQD will consider all public comments received during this public comment period and relevant to the proposed Consent Order, such as comments on the violations, compliance plan, fines, and stipulated fines.

Company Description

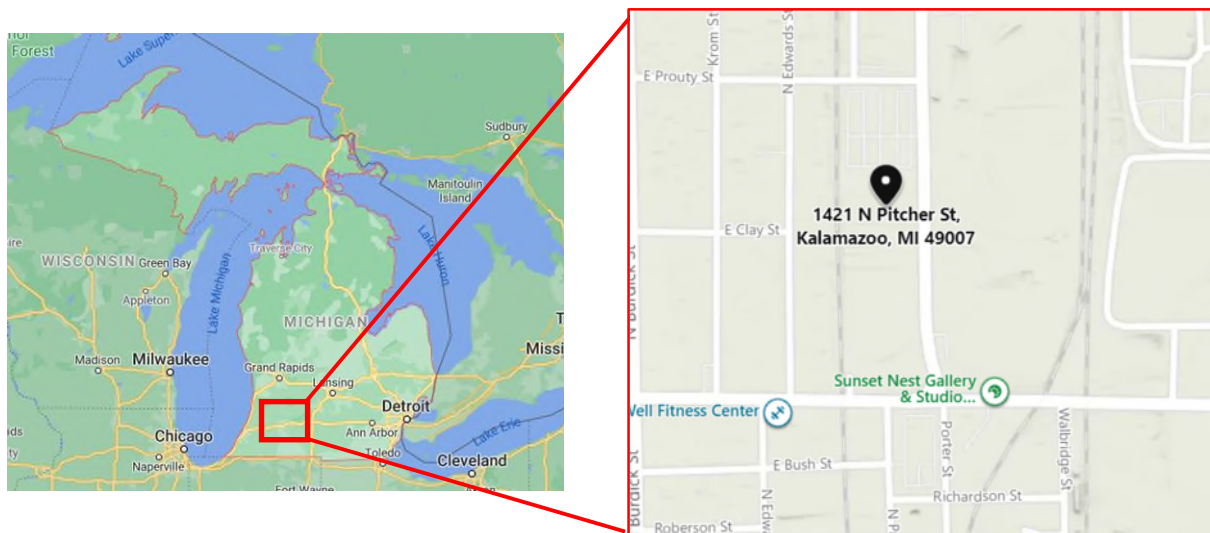
The Company makes paper-based packaging for a variety of products including cups, cartons, boxes, and other food containers. The Company has a wastewater treatment system that includes sludge de-watering equipment, a rotating vacuum drum, and a clarifier. The clarified water gets reused in the paper-making process before being released to the Kalamazoo Water Reclamation Plant, which is adjacent to the Company. The plant is close to Borgess Hospital, many neighborhoods, other businesses in downtown Kalamazoo, and is located in an environmental justice community.

ENFORCEMENT SUMMARY REPORT

Page 2

October 24, 2022

Location



The Company is located at 1421 N. Pitcher Street in Kalamazoo.

Violations

The AQD alleges the Company did not follow these air quality rules. The rules violated were:

- Mich Admin Code, [R 336.1901](#) (Rule 901); and
- Mich Admin Code, [R 336.1201](#) (Rule 201).

From February 2017 to May 2019, the AQD issued five Rule 901 Violations Notices to the Company for emitting odors from its plant that created an unreasonable interference with the comfortable enjoyment of life and property in the surrounding area. An additional Rule 201 Violation Notice (VN) was issued in November 2020, for beginning construction of footings and foundation for two new boilers before obtaining a PTI.

Significant Dates

February 2, 2017	The AQD issued a VN to the Company for nuisance odors.
February 23, 2017	The AQD received a response from the Company to the February 2, 2017, VN.
June 26, 2017	The AQD issued a VN to the Company for nuisance odors.

ENFORCEMENT SUMMARY REPORT

Page 3

October 24, 2022

June 29, 2017	The AQD issued a VN to the Company for nuisance odors.
July 17, 2017	The AQD received a response from the Company to the June 26 and June 29, 2017, VNs.
April 17, 2018	The AQD issued a VN to the Company for nuisance odors.
May 8, 2018	The AQD received a response from the Company to the April 17, 2018, VN.
May 14, 2019	The AQD issued a VN to the Company for nuisance odors.
June 5, 2019	The AQD received a response from the Company to the May 14, 2019, VN.
July 8, 2019	The AQD's Enforcement Unit sent an Enforcement Notice (EN) to the Company requesting a meeting to start the enforcement process.
July 31, 2019	The AQD met with the Company to begin discussing the enforcement process and resolving the violations. Through these discussions the Company agreed to perform an odor study during the next odor season.
July – September 2020	The Company conducted an odor study and submitted the report on November 3, 2020.
September 2020	The Company installed ten monitors on their property to monitor H2S levels and changed work practices to help mitigate odors from the clarifier.
November 20, 2020	The AQD issued a VN to the Company for beginning construction of footings and foundation for two new boilers without a PTI.
December 2020	The Company submitted a nuisance minimization plan for odors (NMPO) to EGLE for review and approval. EGLE made several comments on the NMPO. In response to these comments, the Company requested time to conduct an engineering study to address how to best mitigate odors coming from the facility, before finalizing the plan.
January 22, 2021	EGLE issued a second EN to resume the enforcement process.
May – July 2021	The Company conducted the engineering study.
September 23, 2021	The Company submitted the engineering study report that included recommendations on how to best mitigate odors from the facility.

ENFORCEMENT SUMMARY REPORT

Page 4

October 24, 2022

October 2021 to July 2022	Discussions with the Company were ongoing related to the specific actions the company would take to mitigate odors. On July 1, the Company submitted an updated NMPO for EGLE review and approval.
August 18, 2022	EGLE approved the NMPO.
October 18, 2022	The Company agreed to the terms and conditions of the Consent Order to resolve its' alleged air quality violations.

Compliance Plan

By agreeing to this Consent Order, the Company has agreed to comply with the following air quality rules and regulations:

- Comply with Mich Admin Code [R 336.1901](#) (Rule 901); and
- Comply with Mich Admin Code [R 336.1201](#) (Rule 201).

Facility Operations

- Follow the NMPO and prevent nuisance odors from being emitted from the plant;
- Operate the currently installed oxygenation system on the wastewater treatment system until a permanent system can be designed and installed;
- Install a permanent oxygenation system on the wastewater treatment system no later than 180 days after receiving the required City of Kalamazoo permit;
- No later than March 31, 2023, install continuous oxidation-reduction potential and dissolved oxygen monitors in the wastewater clarifier; and
- No later than December 31, 2023, install a packed bed scrubber to control odors from wet well, AES building filter area, and sludge drum filter vacuum outlet area.

Fine and Stipulated Fines

The proposed Consent Order includes a fine of \$99,270.00, which the Company will pay to the State of Michigan General Fund.

The AQD calculated the fine using the [USEPA Clean Air Act Stationary Source Civil Penalty Policy](#) and Michigan's civil fine statutory authority in Section 5530 and 5532 of Part 55 of NREPA, MCL 324.5530 and MCL 324.5532. To calculate the fine, the AQD considered the following factors:

- the number of violations
- the length of time of the violations;
- the importance of achieving the goals of the Clean Air Act and Michigan's Air Pollution Control Rules;

ENFORCEMENT SUMMARY REPORT

Page 5

October 24, 2022

- the size of the company; and
- how cooperative the company was in correcting the alleged violations.

The proposed Consent Order will be effective for at least three years. After three years, the Company may request that the Consent Order be terminated. If the Company does not follow any part of the compliance plan, the company may be required to pay an additional fine of up to \$5,000.00 per violation per day.

Recommendation

The AQD believes the proposed Consent Order contains an appropriate compliance plan and fine which will allow the Company to resolve the alleged violations. The AQD recommends the proposed Consent Order be finalized.

Submitted by: Jason Wolf and Monica Brothers

Air Quality Division

Michigan Department of Environment, Great Lakes, and Energy

STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
OFFICE OF THE DIRECTOR

In the matter of administrative proceedings
against **GRAPHIC PACKAGING
INTERNATIONAL, LLC**, a limited liability
company, organized under the laws of the
State of Michigan and doing business at
1500 North Pitcher Street in the City of
Kalamazoo, County of Kalamazoo, State of
Michigan

AQD No. 2022-20

SRN: B1678

STIPULATION FOR ENTRY OF FINAL ORDER
BY CONSENT

This proceeding resulted from allegations by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD) against Graphic Packaging International, LLC (Company), a limited liability company organized under the laws of the State of Michigan and doing business at 1500 North Pitcher Street, City of Kalamazoo, County of Kalamazoo, State of Michigan, with State Registration Number (SRN) B1678 (Facility). EGLE alleges that the Company is in violation of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.5501 *et seq.*, Mich Admin Code, R 336.1901 (Rule 901) and Mich Admin Code, R 336.1201 (Rule 201). Specifically, EGLE alleges that the Company has emitted odors from its Facility that have created an unreasonable interference with the comfortable enjoyment of life and property in the surrounding area and began construction for two new boilers before obtaining a Permit to Install (PTI), as cited herein and in Violation Notices dated February 2, 2017, June 26, 2017, June 29, 2017, April 17, 2018, May 14, 2019, and November 20, 2020. The Company and EGLE stipulate to the termination of this proceeding by entry of this Stipulation for Entry of a Final Order by Consent (Consent Order).

The Company and EGLE stipulate as follows:

1. The NREPA MCL 324.101 *et seq.*, is an act that controls pollution to protect the environment and natural resources in this State.
2. Article II, Pollution Control, Part 55 of the NREPA (Part 55), MCL 324.5501 *et seq.*, provides for air pollution control regulations in this State.

3. Executive Order 2019-06 renamed the Michigan Department of Environmental Quality as EGLE, and EGLE has all statutory authority, powers, duties, functions, and responsibilities to administer and enforce all provisions of Part 55.

4. The EGLE Director has delegated authority to the Director of the AQD (AQD Director) to enter into this Consent Order.

5. The termination of this matter by a Consent Order pursuant to Section 5528 of Part 55, MCL 324.5528, is proper and acceptable.

6. The Company and EGLE agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the Company that the law has been violated.

7. This Consent Order becomes effective on the date of execution (Effective Date of this Consent Order) by the AQD Director.

8. The Company shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in this Consent Order.

COMPLIANCE PROGRAM AND IMPLEMENTATION SCHEDULE

9. Rules

9.A On and after the Effective Date of this Consent Order, the Company shall comply with Rule 901.

9.B On and after the Effective Date of this Consent Order, except as otherwise provided by the administrative rules of Part 55, the Company shall not install, construct, reconstruct, relocate, alter, or modify any process or process equipment including control equipment pertaining thereto, which may emit an air contaminant, unless a permit to install which authorizes such action is issued by EGLE pursuant to Rule 201, the Company is issued a waiver pursuant to Rule 202, or the change is exempt from the requirements of Rule 201.

10. Nuisance Minimization Plan

10.A On and after the Effective Date of this Consent Order, the Company shall comply with the Nuisance Minimization Plan for Odors (NMPO) submitted and approved pursuant to

Special Condition III.2 for FGPROJECT2019 in PTI 133-19A. If the NMPO is subsequently modified, pursuant to Special Condition III.3 in PTI 133-19A, the most recently EGLE approved NMPO shall be enforceable under this Consent Order.

11. Oxygenation System

11.A The Company shall not operate FGPROJECT2019 as described in PTI 133-19A unless the currently installed oxygenation system and/or hydrogen peroxide system for the influent to the wastewater clarifier are maintained and operated in a satisfactory manner or until a permanent oxygenation system is designed, installed, and operational.

11.B No later than thirty (30) days after the Effective Date of this Consent Order, the Company shall submit a site plan to the City of Kalamazoo for a permanent oxygenation wastewater treatment system. The Company shall diligently pursue all requirements to obtain the City of Kalamazoo's approval of a permanent oxygenation wastewater treatment system.

11.C No later than one hundred eighty (180) days after the Company receives a City of Kalamazoo Permit, the Company shall have completed the installation of a permanent oxygenation wastewater treatment system and notified the AQD Kalamazoo District Supervisor in writing that the installation has been completed and operation of the equipment has commenced.

12. Continuous Oxygen Reduction Potential (ORP) and Dissolved Oxygen (DO) monitors

12.A By March 31, 2023, the Company shall have completed the installation of continuous ORP monitors in the clarifier outer ring and mill reservoir and notified the AQD Kalamazoo District Supervisor in writing that the installation has been completed and operation of the equipment has commenced.

12.B By March 31, 2023, the Company shall have completed the installation of continuous DO monitors in the clarifier outer ring and center well and notified the AQD Kalamazoo District Supervisor in writing that the installation has been completed and operation of the equipment has commenced.

13. AES building, drum filter area, and wet well emission control

13.A By December 31, 2023, the Company shall have completed the installation of a packed bed scrubber for the AES building, drum filter area, and wet well and notified the AQD Kalamazoo District Supervisor in writing that the installation has been completed and operation of the equipment has commenced.

GENERAL PROVISIONS

14. This Consent Order in no way affects the Company's responsibility to comply with any other applicable state, federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 *et seq.*, Part 55, or their rules and regulations, or to the State Implementation Plan.

15. This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

16. Within thirty (30) days after the Effective Date of this Consent Order, the Company shall pay to the General Fund of the State of Michigan, in the form of a check made payable to the "State of Michigan" and mailed to the Michigan Department of Environment, Great Lakes, and Energy, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157, a settlement amount of \$99,270.00, which includes the AQD costs for investigation and enforcement. This total settlement amount shall be paid within thirty (30) days after the Effective Date of this Consent Order. To ensure proper credit, all payments made pursuant to this Consent Order shall include the "Payment Identification Number AQD40292" on the front of the check and/or in the cover letter with the payment. This settlement amount is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

17. On and after the Effective Date of this Consent Order, if the Company fails to comply with paragraph 9.A of this Consent Order, the Company is subject to a stipulated fine of up to \$5,000.00 per violation per day. On and after the Effective Date of this Consent Order, if the Company fails to comply with paragraph 9.B, 10.A, 11.A, 11.B, 11.C, 12.A, 12.B, or 13.A of this Consent Order, the Company is subject to a stipulated fine of up to \$2,000.00 per violation per day. The amount of the stipulated fines imposed pursuant to this paragraph shall be within the discretion

of EGLE. Stipulated fines submitted under this Consent Order shall be made by check, payable to the State of Michigan within thirty (30) days after written demand and shall be mailed to the Michigan Department of Environment, Great Lakes, and Energy, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments shall include the "Payment Identification Number AQD40292-S" on the front of the check and/or in the cover letter with the payment. Payment of stipulated fines shall not alter or modify in any way the Company's obligation to comply with the terms and conditions of this Consent Order.

18. The AQD, at its discretion, may seek stipulated fines or statutory fines for any violation of this Consent Order which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or EGLE administrative order. However, the AQD is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.

19. To ensure timely payment of the settlement amount assessed in paragraph 16 and any stipulated fines assessed pursuant to paragraph 17 of this Consent Order, the Company shall pay an interest penalty to the State of Michigan each time it fails to make a complete or timely payment under this Consent Order. The interest penalty shall be determined at a rate of twelve percent (12%) per year compounded annually, using the full increment of amount due as principal, calculated from the due date specified in this Consent Order until the date that delinquent payment is finally paid in full. Payment of an interest penalty by the Company shall be made to the State of Michigan in accordance with paragraph 17 of this Consent Order. Interest payments shall be applied first towards the most overdue amount or outstanding interest penalty owed by the Company before any remaining balance is applied to subsequent payment amount or interest penalty.

20. The Company agrees not to contest the legal basis for the settlement amount assessed pursuant to paragraph 16. The Company also agrees not to contest the legal basis for any stipulated fines assessed pursuant to paragraph 17 of this Consent Order but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by EGLE of stipulated fines is made. In addition, the Company agrees that said fines have not been assessed by EGLE pursuant to Section 5529 of Part 55, MCL 324.5529, and therefore are not reviewable under Section 5529 of Part 55.

21. This compliance program is not a variance subject to the 12-month limitation specified in Section 5538 of Part 55, MCL 324.5538.

22. This Consent Order shall remain in full force and effect for a period of at least three (3) years. Thereafter, this Consent Order shall terminate only upon written notice of termination issued by the AQD Director. Prior to issuance of a written notice of termination, the Company shall submit a request, to the AQD Director at the Michigan Department of Environment, Great Lakes, and Energy, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, consisting of a written certification that the Company has fully complied with all the requirements of this Consent Order and has made all payments including all stipulated fines required by this Consent Order. Specifically, this certification shall include: (i) the date of compliance with each provision of the compliance program and the date any payments or stipulated fines were paid; (ii) a statement that all required information has been reported to the AQD Kalamazoo District Supervisor; (iii) confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the Facility; and, (iv) such information as may be requested by the AQD Director.

23. In the event the Company sells or transfers the Facility, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within thirty (30) calendar days, the Company shall also notify the AQD Kalamazoo District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. As a condition of the sale, the Company must obtain the consent of the purchaser and/or transferee, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the AQD Kalamazoo District Supervisor within thirty (30) days after assuming the obligations of this Consent Order.

24. Prior to the Effective Date of this Consent Order and pursuant to the requirements of Sections 5511 and 5528(3) of Part 55, MCL 324.5511 and MCL 5528(3), the public was notified of a 30-day public comment period and was provided the opportunity for a public hearing.

25. Section 5530 of Part 55, MCL 324.5530, may serve as a source of authority but not a limitation under which this Consent Order may be enforced. Further, Part 17 of the NREPA, MCL 324.1701 *et seq.*, and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Consent Order.

26. The Company hereby stipulates that entry of this Consent Order is a result of an action by EGLE to resolve alleged violations at its Facility located at 1500 North Pitcher Street,

Kalamazoo, Michigan. The Company further stipulates that it will take all lawful actions necessary to fully comply with this Consent Order, even if the Company files for bankruptcy in the future. The Company will not seek discharge of the settlement amount and any stipulated fines imposed hereunder in any future bankruptcy proceedings, and the Company will take the necessary steps to ensure that the settlement amount and any future stipulated fines are not discharged. The Company, during and after any future bankruptcy proceedings, will ensure that the settlement amount and any future stipulated fines remain an obligation to be paid in full by the Company to the extent allowed by applicable bankruptcy law.

The undersigned certifies that he/she is fully authorized by the Company to enter into this Consent Order and to execute and legally bind the Company to it.

GRAPHIC PACKAGING INTERNATIONAL, LLC

Print Name and Title

Signature

Dated: _____

Subscribed and sworn to by the above signatory before me on this _____ day of

_____, 20____.

Notary Public Signature

Notary Public Printed Name

My Commission Expires

Approved as to Content:

Approved as to Form:

Mary Ann Dolehanty, Director
AIR QUALITY DIVISION
DEPARTMENT OF ENVIRONMENT,
GREAT LAKES, AND ENERGY

Margaret Bettenhausen, Section Head
AIR AND WATER SECTION
ENVIRONMENT, NATURAL RESOURCES,
AND AGRICULTURE DIVISION
DEPARTMENT OF ATTORNEY GENERAL

Dated: _____

Dated: _____

FINAL ORDER

The Director of the Air Quality Division having had opportunity to review this Consent Order and having been delegated authority to enter into Consent Orders by the Director of the Michigan Department of Environment, Great Lakes, and Energy pursuant to the provisions of Part 55 of the NREPA and otherwise being fully advised on the premises,

HAS HEREBY ORDERED that this Consent Order is approved and shall be entered in the record of EGLE as a Final Order.

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

Mary Ann Dolehanty, Director
Air Quality Division

Effective Date: _____