
Graphic Packaging International, LLC

RESPONSE TO COMMENTS DOCUMENT

January 30, 2023

Consent Order No. 2022-20



Gretchen Whitmer, Governor

Air Quality Division
Michigan Department of Environment, Great Lakes, and Energy

INTERNET: [Michigan.gov/Air](https://www.michigan.gov/Air)

Annette Switzer, Director
Air Quality Division
Constitution Hall, 2nd Floor, South Tower
525 West Allegan Street
P.O. Box 30260
Lansing, Michigan 48909-7760
Phone: 800-662-9278
Fax: 517-335-0012

PUBLIC PARTICIPATION PROCESS

Consent Order No. 2022-20 (Consent Order) requires Graphic Packaging International, LLC (Graphic Packaging), located at 1500 North Pitcher Street, Kalamazoo, Michigan, to pay a fine, and follow a compliance program. The Consent Order resolves violations alleged by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD) at Graphic Packaging.

On November 24, 2022, a public comment period was opened. The public participation process involved providing information for public viewing and an online information session and public hearing.

- The [Proposed Enforcement Summary \(PES\)](#), [Enforcement Summary Report \(ESR\)](#), and [proposed Consent Order](#) were placed on the [AQD Public Notice webpage](#) for [Proposed Consent Orders Open for Comment](#).
- EGLE's [Graphic Packaging webpage](#) provided an update on the public comment period.
- Notifications and updates were sent via email to persons who had previously expressed interest in Graphic Packaging and had provided a valid email address.
- A [recording](#) of the informational session and public hearing.

The extended 45-day public comment period was held for the public to provide verbal and written comments on the proposed Consent Order.

Public Comment Period and Opportunities to Participate

To notify the public about the comment period, the AQD staff:

- Provided copies of the PES, ESR, and proposed Consent Order on the AQD's Public Comment webpage at [Michigan.gov/EGLEAirPublicNotice](#).
- Information on the enforcement action was posted on EGLE's Graphic Packaging webpage at [Michigan.gov/EGLEGraphicPackaging](#).
- A notice of the start of the comment period, the date of the informational session and public hearing, and the end of the comment period were posted on the [EGLE Calendar](#).
- An announcement about the comment period, public hearing and associated details were shared via EGLE's subscription service to subscribers to the Air Quality and Environmental Justice topics. This notice was then shared with residents who previously indicated an interest in Graphic Packaging lists.

Approximately 50 people attended the virtual information session and public hearing held on December 1, 2022. The AQD staff were available to answer questions about the proposed Consent Order during the information session. Annette Switzer, AQD Division Director, was the decision maker for the action and Jenifer Dixon served as the hearing officer. The information

session began at 6:00 p.m. and the public hearing followed, ending at approximately 7:45 p.m. During the public hearing, verbal comments were provided for the record.

Summary of Changes

As a result of additional information and comments received, the following changes were made to the Consent Order:

- **Addition of timeline for Envirosuite data sharing.** Graphic Packaging is required to post Envirosuite monitoring network data no later than 90 days after the Effective Date of the Consent Order. The Envirosuite monitoring network is used to measure hydrogen sulfide (H₂S), the primary odor causing pollutant.
- **Addition of the December 19, 2022, Violation Notice with a \$10,000.00 increase to the monetary fine.** During an odor complaint investigation on December 14, 2022, the AQD staff observed objectionable odors being emitted from the plant and issued a violation notice on December 19, 2022, citing a violation of Mich Admin Code, R 336.1901 (R 901). This violation notice has been resolved in the Consent Order by adding the statutory maximum penalty of \$10,000.00 to the monetary fine.

Public Comments

A total of 17 comments were received during the public comment period.

The remainder of this document is a listing of the significant comments received during the public comment period and hearing regarding the proposed Consent Order and the AQD's response. The *Summary of Significant Comments* section below discusses the comments received and if changes were made to the final Consent Order terms and conditions, the change(s) made and the basis for the change(s).

Summary of Significant Comments

1. Comment

The \$99,270.00 fine is not large enough and does not serve as a deterrent to Graphic Packaging. Graphic Packaging should pay a fine that takes into account health effects and damage to the surrounding community. EGLE should have assessed the heaviest possible fine for Graphic Packaging to pay.

AQD Response

The AQD follows the United States Environmental Protection Agency's (USEPA) Clean Air Act Stationary Source Civil Penalty Policy (USEPA Penalty Policy) to calculate monetary fines. The USEPA Penalty Policy sets out violation categories and corresponding fines based on:

- The gravity of the alleged violations,
- The importance of achieving the goals of the Clean Air Act and Michigan's Air Pollution Control Rules, and

- The length of time the violations occurred, the size of violator, aggravating and mitigating factors such as cooperation, history of noncompliance, and degree of negligence, and inflation.

The AQD also included monetary fines for the seven days of verified nuisance odors that unreasonably interfered with nearby residents' comfortable enjoyment of life and property, in violation of Mich Admin Code R 336.1901(b) (Rule 901). Because these are state only violations, the USEPA Penalty Policy is not used to calculate this portion of the monetary fine. State law limits the penalty amount for violations of Rule 901 to \$10,000.00 per violation per day. The AQD calculated the maximum fine under the state statute for each Rule 901 violation.

The AQD believes that by entering the Consent Order to resolve the cited violations and paying the monetary settlement there is appropriate deterrence to prevent future similar violations. In addition, under this settlement, Graphic Packaging will be required to pay additional stipulated fines if future violations of the Consent Order occur.

2. Comment

The timelines of the compliance actions in the Consent Order should be shortened to minimize the length of time of continued non-compliance.

AQD Response

Minimizing a period of non-compliance is a priority during Consent Order negotiations. The time it takes to make these significant equipment and operational changes to an industrial facility is also considered. The specific timelines and reasons for these changes are discussed below:

- Installation of a permanent oxygenation system within 180 days of receiving the required City of Kalamazoo permit.
 - Graphic Packaging has been using a temporary oxygenation system since September 2020 and will continue to use it until the permanent system is completed. To complete the installation of the permanent oxygenation system, the City of Kalamazoo must provide approval. Since the AQD is limited in this regard, the Consent Order requires Graphic Packaging to begin the process as soon as possible, follow through, and complete the installation within a reasonable time period and according to the schedule in the Consent Order.
- Installation of Continuous Oxygen Reduction Potential (ORP) and Dissolved Oxygen (DO) monitors no later than March 31, 2023.
 - The installation of these monitors will be completed within weeks of the Consent Order being effective.
- Installation of a packed bed scrubber for the AES building, drum filter area, and wet well no later than December 31, 2023.
 - Adding a scrubber is a significant change requiring design and engineering expertise as well as specialized equipment. Because of the considerable lead

time needed to construct and ship the equipment, which has been impacted by supply chain constraints, a longer installation timeframe is required.

3. Comment

As part of the compliance plan, Graphic Packaging should be required to expand the current Envirosuite monitor network by adding additional capabilities to measure more pollutants like Volatile Organic Compounds (VOCs) and Particulate Matter equal to or less than 2.5 microns in diameter (PM2.5).

AQD Response

The primary purpose of the Envirosuite monitoring network is to measure for odors that may impact nearby residents. The primary odor causing pollutant is H₂S which is what the Envirosuite monitors currently measure. Adding additional pollutant sensors to these monitors is outside the scope of this enforcement action.

4. Comment

EGLE has grounds to shut Graphic Packaging down. Graphic Packaging should not be able to continue operation.

AQD Response

The AQD has the statutory authority to revoke a permit under Part 5510 of the National Resources and Environmental Protection Act (NREPA). In order to revoke a permit, the AQD must be able to show there is a substantial and imminent threat to public health and lives. The data collected so far has not shown there is a substantial and imminent threat to public health from the air emissions from the facility.

The AQD can hold Graphic Packaging accountable to their permit conditions and the state and federal rules and regulations. As needed, EGLE will continue to evaluate emissions from Graphic Packaging and will partner with Michigan Department of Health and Human Services (MDHHS) to evaluate public health concerns in the community.

5. Comment

The proposed Consent Order should include a Supplement Environmental Project (SEP) that would reduce the environmental and health impacts from Graphic Packaging. The Consent Order should include relocation funds for people in the area because of the serious health impacts on the part of Graphics Packaging.

AQD Response

A SEP is an environmentally beneficial project that is not required by state or federal law. A company may agree to complete a SEP as part of an enforcement settlement in lieu of payment of a portion of the monetary fines. A proposed SEP must comply with [EGLE's SEP Policy](#).

The SEP Policy does not allow EGLE to choose projects for companies in escalated enforcement and cannot direct who the company meets with and where the SEP dollars should go. The company submits proposals to be reviewed, and if the project meets the SEP policy, the project is approved.

In this case, Graphic Packaging submitted two SEP proposals during enforcement negotiations. The AQD staff reviewed the proposals and determined they could not be approved because they did not meet the requirements of EGLE's SEP policy. In addition, the Michigan Management and Budget Act requires that fines paid under a Consent Order must go to the State of Michigan General Fund unless a portion of the fines go to a SEP as part of a settlement. Additionally, EGLE's SEP Policy does not allow for the approval of projects funding the relocation of residents as a SEP.

6. Comment

Asthma and other health impacts related to air quality are worse in the 49007 zip code. More should be done to protect the air quality.

AQD Response

The AQD has collaborated with MDHHS and other health professionals to review all available air monitoring data and other information.

MDHHS has completed a review of asthma prevalence and asthma hospitalization rates in Kalamazoo, focusing on an area potentially exposed to emissions that included the 49007 zip code. The findings from that review will be included in MDHHS's Kalamazoo Air Quality Health Consultation when it is released.

To protect air quality, the AQD makes sure each air permit contains all applicable regulatory requirements, including health-based limits, and has sufficient monitoring, testing, and recordkeeping to determine if a company is complying with the permit conditions. The function of this Consent Order is to bring Graphic Packaging back into compliance with the rules and regulations that were violated. The AQD believes the requirements of the compliance plan adequately address the alleged violations, including minimizing nuisance odors.

7. Comment

Permits should consider health impacts before being issued.

AQD Response

During the evaluation of a permit application, the proposed air emissions are evaluated for compliance with applicable health-based standards. These can be the national health-based standards, called the National Ambient Air Quality Standards, the health-based standards set by EGLE for emissions of toxic air contaminants, or other pollutant specific standards. The evaluation uses a computer program called dispersion modeling to look at the proposed emissions, and other things, like weather data and topography, to ensure any emissions reaching the ground will not exceed these health-based standards.

8. Comment

The odor from Graphic Packaging results in burning eyes and other health impacts.

AQD Response

While the AQD has issued odor violations to Graphic Packaging, these violations are not based on potential health impacts. The AQD is collaborating with MDHHS and others to investigate community odors and potential associated health effects. MDHHS is reviewing available environmental sampling and monitoring data near Graphic Packaging and the Kalamazoo Water Reclamation Plant for potential health concerns. The findings from this review will be included in MDHHS's Kalamazoo Air Quality Health Consultation when it is released.

9. Comment

If there is an odor in the air, testing should be able to determine what it is.

AQD Response

Air sampling often involves testing for specific sets of pollutants. To sample, we need to know what pollutants to look for and have a method to detect it. H₂S is one suspected odor-causing pollutant associated with community odor concerns in the Kalamazoo area. However, there may be other odor-causing pollutants that are not clearly known or do not have readily available testing methods.

Air sampling and monitoring has occurred around Graphic Packaging and the City of Kalamazoo Wastewater Treatment Plant in a variety of different ways. The City of Kalamazoo's Envirosuite monitoring network measures H₂S in real time. The AQD staff evaluate this monitoring data as well Envirosuite data provided by Graphic Packaging. Staff conduct regular compliance inspection and odor investigations in response to community complaints.

In May 2021, the USEPA deployed the Geospatial Monitoring of Air Pollutants (GMAP) mobile monitor. The GMAP monitored for H₂S, methane, benzene, toluene, p-xylene, and other pollutants, near Graphics Packaging, and surrounding areas in Kalamazoo, MI. The complete report can be found here: [USEPA Geospatial Monitoring of Air Pollution](#).

In April and May 2021, the AQD also conducted additional sampling for total reduced sulfur compounds, which includes H₂S, to further evaluate community odor concerns. This was done in predominantly downwind direction of suspected odor sources. The results were presented in the October 2021 community update meeting. The presentation slides and the recording of the presentation can be found on the [AQD's webpage for air quality information related to Graphic Packaging](#).