

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)	
)	
Integrity Cabinets, LLC)	
Ashland, Clay County, Alabama)	CONSENT ORDER NO. 15-0XX-CAP
)	
Air Facility ID No. 304-0011)	

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter, “the Department” and/or “ADEM”) and Integrity Cabinets, LLC (hereinafter, the “Permittee”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code, §§ 22-22A-1 through 22-22A-16, (2006 Rplc. Vol.), the Alabama Air Pollution Control Act, Ala. Code §§22-28-1 to 22-28-23 (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto.

STIPULATIONS

1. The Permittee operates a cabinet manufacturing plant, ADEM Air Division Facility No. 304-0011 (hereinafter, the “Facility”), located in Clay County in Ashland, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23 (2006 Rplc. Vol.).

4. On October 18, 2004, the Department issued Synthetic Minor Operating Permit 304-0011-X001 (hereinafter, "SMOP X001") to the Permittee, subject to certain conditions and requirements. On January 10, 2014, the Department issued Synthetic Minor Operating Permit 304-0011-X002 (hereinafter, "SMOP X002") to the Permittee, subject to certain conditions and requirements.

5. The following production units are among those regulated under: SMOP X001 – Wood Cabinet Manufacturing Operation and SMOP X002 – Specialty Products Off-Line Booth.

6. Permit Provisos No. 11 of SMOP X001 and SMOP X002 state:

Emission of Hazardous Air Pollutants (HAPs) from all surface coating operations including, but not limited to coating, storage, cleanup, etc., shall not exceed 9 tons in any consecutive rolling 12-month period of any one HAP or 23 tons in any consecutive rolling 12-month period based on the premise that all HAPs applied are emitted. Emission of Volatile Organic Compounds (VOCs) from all surface coating operations including, but not limited to coating, storage, cleanup, etc., shall not exceed 95 tons per year (TPY) in any consecutive rolling 12-month period based on the

premise that all VOCs applied are emitted. If the emission of HAPs and/or VOCs exceed these limits, the Air Division shall be notified in writing within 10 days of the exceedance. Accurate and understandable records of consumption, which records at least the last two years of data, will be maintained in a permanent form suitable for inspection and be available immediately upon request.

7. On October 22, 2014, the Permittee informed the Department in a telephone call that there were errors in the emission calculations for the past few months and that it would provide revised calculations.

8. On December 1, 2014, the Permittee asked the Department to proceed with issuing Air Permits that would increase emissions limitations to Title V major source levels.

9. On December 12, 2014, the Department issued Air Permit X001 and Air Permit X002 to replace SMOP X001 and SMOP X002.

10. On January 12, 2015, the Permittee submitted revised emission calculations to the Department in response to the October 22, 2014 phone call.

11. On January 22, 2015, the Department met with the Permittee regarding the emission calculation errors, the revised emission calculations, and issuance of the requested Air Permits.

DEPARTMENT'S CONTENTIONS

12. The January 12, 2015 revised calculations showed that the Permittee exceeded the SMOP X001 and SMOP X002 limit of 95 TPY

of VOCs in the 12 month periods ending May 2014, June 2014, July 2014, August 2014, September 2014, October 2014, and November 2014, with emissions of 95.9, 101.6, 107.2, 112.9, 118.6, 119, and 111.4 TPY respectively.

13. The January 12, 2015 revised calculations showed that the Permittee exceeded the SMOP X001 and SMOP X002 limit of 23 TPY of HAPs in the 12 month periods ending June 2014, July 2014, August 2014, September 2014, October 2014, and November 2014, with emissions of 23.2, 24.5, 25.9, 27.3, 27.4, and 25.8 TPY respectively.

14. The January 12, 2015 revised calculations showed that the Permittee exceeded the SMOP X001 and SMOP X002 limit of 9 TPY of any single HAPs, xylene, in the 12 month periods ending August 2014, September 2014, October 2014, and November 2014, with emissions of 9.4, 9.9, 9.8, and 9.3 TPY respectively.

15. The January 12, 2015 revised calculations showed that the Permittee exceeded the SMOP X001 and SMOP X002 limit of 9 TPY of any single HAPs, toluene, in the 12 month periods ending July 2014, August 2014, September 2014, October 2014, and November 2014, with emissions of 9.2, 9.6, 10.1, 10.1, and 9.3 TPY respectively.

16. Pursuant to Ala. Code §22-22A-5(18)c. (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or

safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The Department considers the below alleged violations to be serious:

(1) The Permittee failed to properly identify and report accurate VOC and HAP emission records.

(2) The Permittee exceeded the VOC limitations in SMOP X001 and SMOP X002.

(3) The Permittee exceeded the aggregate HAPs limitations in SMOP X001 and SMOP X002.

(4) The Permittee exceeded the single HAP of xylene limitation in SMOP X001 and SMOP X002.

(5) The Permittee exceeded the single HAP of toluene limitation in SMOP X001 and SMOP X002.

B. THE STANDARD OF CARE: The Permittee demonstrated an inadequate standard of care by:

(1) Failing to properly identify, review and submit correct VOC, aggregate HAP, single HAP calculations, and reports.

(2) Emitting pollutants in excess of Permitted levels.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has determined that there was little or no significant economic benefit gained by the Permittee as a result of the violations referenced herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is not aware of any efforts to minimize or mitigate the effects of the violations upon the environment by the Permittee.

E. HISTORY OF PREVIOUS VIOLATIONS: There is no record of air pollution emission violations at the Facility within the last five years with the Department.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty in this matter to resolve this matter amicably without incurring the unwarranted expense of litigation.

17. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty herein is appropriate (see Attachment A, which is made a part of Department's Contentions).

18. The Department neither admits nor denies Permittee's contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

PERMITTEE'S CONTENTIONS

19. The Permittee neither admits nor denies the Department's contentions. The Permittee consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code §22-22A-5(18)c. (2006 Rplc. Vol.), as well as the need for timely and effective enforcement, and that

the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this ORDER with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of \$10,000.00 in settlement of the violations alleged herein in six monthly installment payments. The first payment of \$5000.00 shall be paid in full within forty-five days from the date of issuance of this Consent Order. The remaining five installment payments of \$1000.00 each shall be paid in full on by eighteenth day of each month thereafter. Failure to pay the civil penalty within the specified timeframe after issuance of this Consent Order may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

C. Accurate records VOC and HAP emissions shall be kept and reviewed at least monthly by the Permittee and it shall submit these

records to the Department at least on a quarterly basis by the fifteenth day of the month following recording.

D. The Permittee agrees to comply with the terms, limitations, and conditions of the Permits and the Department's regulations immediately upon the effective date of this Consent Order and every day thereafter.

E. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

F. The parties agree that, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the alleged violations and/or deviations which are cited in this Consent Order.

G. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

H. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that in any

action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure*. Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

I. The Department and the Permittee agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the Facility which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if future orders, litigation or other enforcement action address new matters not raised in this Consent Order.

J. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

K. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

L. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the

Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Order.

M. The Department and the Permittee agree that, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

N. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties.

O. The Department and the Permittee agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

INTEGRITY CABINETS, LLC

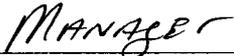
ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT



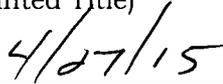
(Signature of Authorized Representative)



(Printed Name)



(Printed Title)



(Date Signed)



Lance R. LeFleur
Director



(Date Executed)

Attachment A

**INTEGRITY CABINETS, LLC
Ashland, Clay County**

Air Facility ID No. 304-0011

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Failure to Identify and Report Accurate Records	1	\$2,000	\$1,000		
Exceedance of VOC/HAP Permit Limitations	1	\$5,000	\$2,000		
					Total of Three Factors
TOTAL PER FACTOR		\$7,000	\$3,000	\$0	\$10,000

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	
Ability to Pay (-)	
Other Factors (+/-)	
Total Adjustments (+/-) <i>Enter at Right</i>	\$0

Economic Benefit (+)	
Amount of Initial Penalty	\$10,000
Total Adjustments (+/-)	\$0
FINAL PENALTY	\$10,000

Footnotes

* See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.