

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF  
ENVIRONMENTAL QUALITY**

IN THE MATTER

**American Greetings Corporation  
1400 Ohlendorf Rd.  
P.O. Box 488  
Osceola, AR 72370**

**LIS No. 21- 061  
ARD007023179  
AFIN 47-00030**

**CONSENT ADMINISTRATIVE ORDER**

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act of 1979, Ark. Code Ann. § 8-7-201 *et seq.*, the Remedial Action Trust Fund Act, Ark. Code Ann. § 8-7-501 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Rules 7, 8, and 23.

The issues herein having been settled by the agreement of American Greetings Corporation (Respondent) and the Division of Environmental Quality<sup>1</sup> (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

**FINDINGS OF FACT**

1. Respondent manufactures greeting cards. The manufacturing process includes a copper and magnesium plate-etching process. The facility (Facility) is located at 1400 Ohlendorf Rd., Osceola, Mississippi County, Arkansas.
2. Respondent is a Large Quantity Generator of hazardous waste.
3. Prior to January 7, 2020, Respondent was disposing of hazardous waste generated by its plate-etching process (Filter Cake Waste) at a non-RCRA solid waste landfill.

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<sup>1</sup> Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Department of Energy and Environment.

4. Ark. Code Ann. § 8-7-204(c) provides that each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment and authorizes DEQ to assess an administrative civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day for violations of any provision of the Arkansas Hazardous Waste Management Act (the Act) and any rule or permit issued pursuant to the Act.

5. Ark. Code Ann. § 8-7-205(1) states, “It shall be unlawful for any person to [v]iolate any provisions of this subchapter or of any rule, permit, or order adopted or issued under this subchapter[.]”

6. In November 2019, in response to comments from an outside vendor regarding Respondent’s Filter Cake Waste, Respondent took efforts to confirm the RCRA status of the Filter Cake Waste by sending it to a certified lab. The lab concluded the Filter Cake Waste did not present leachable forms of hazardous constituents. Following this lab assessment, Respondent initiated a voluntary environmental audit.

7. On January 7, 2020, Respondent began disposing of the Filter Cake Waste at a RCRA-permitted landfill as a listed hazardous waste (F006).

8. Due to the Covid-19 Pandemic, the Facility shut down from March 22, 2020 to June 1, 2020. As a result of the temporary facility closure, the aforementioned environmental audit was not completed until July 2020.

9. The first environmental audit, completed July 2020, concluded that the Filter Cake Waste was not a characteristic or listed hazardous waste.

10. In September 2020, Respondent initiated a second voluntary environmental audit.

11. On October 5, 2020, Respondent received the results of the second audit. The audit concluded that the Filter Cake Waste generated by the plate-etching process is a listed hazardous waste (F006).

12. On October 20, 2020, Respondent submitted to DEQ a Voluntary Disclosure Report, self-reporting information concerning the violations pursuant to DEQ's Environmental Self-Disclosure Policy. The Voluntary Disclosure Report is incorporated herein by reference.

13. As a result of the review of the October 20, 2020 Voluntary Disclosure report, DEQ determined that Respondent failed to make a waste determination of the Filter Cake Waste in violation of APC&EC Rule 23 § 262.11, and had disposed of Filter Cake Waste at a facility that is not permitted to accept such waste in violation of APC&EC Rule 23 § 2(c).

14. On March 1, 2021, DEQ notified Respondent that the Self-Disclosure submittal did not meet the prompt disclosure requirement of DEQ's Self-Disclosure Policy.

#### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit documentation of the retraining conducted with all personnel that manage hazardous waste, with specific focus on the F006 waste stream. This documentation shall include, but is not limited to, training materials, logs, and attendance documentation.

2. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit a copy of waste handling procedures that include the F006 waste stream.

3. All documents required by this CAO to be submitted to DEQ, excluding the penalty payment required by Paragraph 4 below, shall be emailed to Enforcement, Office of Land Resources, at [olrenforcement@adeq.state.ar.us](mailto:olrenforcement@adeq.state.ar.us), or submitted by Certified Mail or hand delivered to Enforcement, Office of Land Resources, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.

4. In compromise and full settlement for instances of noncompliance specified in the Findings of Fact, Respondent agrees to pay a reduced civil penalty in the sum of ONE

THOUSAND TWO HUNDRED FIFTY DOLLARS (\$1,250.00) if this CAO is signed and returned to the Office of Land Resources, Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar days of receipt of this CAO. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment of the penalty shall be made payable to DEQ and mailed to the attention of:

Division of Environmental Quality  
Fiscal Division  
5301 Northshore Drive  
North Little Rock, AR 72118

In the event that Respondent fails to pay the civil penalties within the prescribed time, DEQ shall be entitled to attorneys' fees and costs associated with collection as well as all other lawful fees and penalties.

5. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiencies, Respondent shall submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies within the timeframe specified by DEQ. Failure to respond adequately in writing within the timeframe specified by DEQ constitutes a failure to meet the requirements established by this CAO.

6. If Respondent fails to meet any requirement of this CAO within the deadline established by the CAO, DEQ may assess stipulated penalties for the delay in the following amounts:

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|-----|--|--------------------|
| (a) | First day through the fourteenth day:    | \$250.00 per day   |
| (b) | Fifteenth day through the thirtieth day: | \$1,250.00 per day |
| (c) | Each day beyond the thirtieth day:       | \$2,500.00 per day |

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions which may be available to DEQ by reason of Respondent's failure to comply with this CAO.

7. Respondent shall notify DEQ in writing within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail the anticipated length of delay, the precise cause of delay, and the measures being taken to correct and minimize the delay.

8. DEQ may grant an extension of any provision of this CAO, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

9. Nothing contained in this CAO shall be construed as a waiver by DEQ of its authority over alleged violations not specifically addressed herein. This CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits or licenses, nor does it relieve Respondent of any other obligations imposed by any local, state, or federal laws. This CAO does not exonerate any past, present, or future conduct not expressly addressed herein.

10. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule No. 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this CAO based upon the comments received within the thirty-day public comment period.

11. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this CAO shall occur on or about the 10th or 25th day of the month following the date this CAO is executed. As provided by APC&EC Rule No. 8, this matter is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the APC&EC.

12. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 24 DAY OF ~~October~~ June, 2021.

Becky W Keogh  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

American Greetings Corporation

BY: [Signature]  
(Signature)

Shannon Sullivan  
(Typed or printed name)

TITLE: Plant Manager, Oscola facility

DATE: 6/16/21