COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

West Central Regional Office
3019 Peters Creek Road, Roanoke, Virginia 24019
Telephone (540) 562-6700, Fax (540) 562-6725
www.deq.state.va.us

Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
A SPECIAL ORDER BY CONSENT
ISSUED TO
CPFilms, Inc. Reg. #30877

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and CPFilms, Inc., for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.

2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code § 10.1-1301 and 10.1-1184

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Order.

6. "CPFilms, Inc." means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the structure at US Route 58 in Henry County, Virginia.

8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.

9. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. CPFilms, Inc. owns and operates a facility in Henry County, Virginia. This facility is the subject of the September 28, 2001 Virginia Title V Operating permit, which allows the operation of a solar controlled window film manufacturing facility.

2. DEQ has noted an apparent violation of the Air Pollution Control Law and Regulations. These problems, noted in a Notice of Violation issued by DEQ on April 14, 2003, include:

   a. On 4/11/03, staff conducted a file review for semi-annual periodic monitoring and annual compliance certification reports required by the Title V permit. The source submitted these reports to DEQ on March 31, 2003. These reports are 30 days past the report due date. The source was issued a warning letter on 9/17/02 for failure to submit the reports required by the Title V permit.

3. CPFilms, Inc. has corrected many of the problems cited in the Notice of Violation by submitting the Title V annual compliance certification and semi-annual periodic monitoring reports.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307.D, 10.1-1184 and §10.1-1316.C, orders CPFilms, Inc., and CPFilms, Inc. voluntarily agrees, to pay a civil charge of **$1,514** within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of CPFilms, Inc., for good cause shown by CPFilms, Inc., or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to CPFilms, Inc. by DEQ on April 14, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, CPFilms, Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. CPFilms, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. CPFilms, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by CPFilms, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. CPFilms, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. CPFilms, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. CPFilms, Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

a. the reasons for the delay or noncompliance;

b. the projected duration of any such delay or noncompliance;

c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and CPFilms, Inc.. Notwithstanding the foregoing, CPFilms, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to CPFilms, Inc.. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve CPFilms, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, CPFilms, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of JUNE 13, 2003.

Steven A. Dietrich for
Robert G. Burnley, Director
Department of Environmental Quality

CPFilms, Inc. voluntarily agrees to the issuance of this Order.

By: James S. Ketterer

Date: 6/11/03

Commonwealth of Virginia

City/County of Henry

The foregoing document was signed and acknowledged before me this 11 day of June, 2003, by James S. Ketterer (name), who is ESH Manager (title) of CPFilms, Inc., on behalf of the Corporation.

Martha J. Wagner
Notary Public

My commission expires: May 31, 2005.