

**ALLEGHENY COUNTY HEALTH DEPARTMENT
AIR QUALITY PROGRAM**

In the Matter of:

Kopp Glass, Inc.
2108 Palmer Street
Pittsburgh, PA 15218

ACHD Violation No. 200701

Violations of Article XXI (“Air
Pollution Control”) at facility:

Kopp Glass, Inc.
2108 Palmer Street
Pittsburgh, PA 15218

ENFORCEMENT ORDER

NOW, this 27th day of July, 2020, the Allegheny County Health Department (hereinafter “ACHD”) issues this Enforcement Order after it has found and determined the following:

I. AUTHORITY

1. The Director of the Allegheny County Health Department (“ACHD”) has been delegated authority pursuant to the federal Clean Air Act (CAA), 42 U.S.C. §§ 7401 et seq., and the Pennsylvania Air Pollution Control Act (APCA), 35 P.S. §§ 4001 et seq., and the ACHD is a local health agency organized under Local Health Administration Law, Act 315 of August 24, 1951, P.L. 1304, as amended, 16 Pa.C.S. § 12001 et seq., whose powers and duties include the enforcement of laws relating to public health within Allegheny County, including the Allegheny County Health Department’s Rules and Regulations, Article XXI, Air Pollution Control (hereinafter “Article XXI”).

2. The federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to regulate hazardous air pollutants (HAPs) from specific categories of industrial sources. HAPs are air pollutants known to cause cancer and other serious health impacts. The EPA regulations implementing these Clean Air Act requirements are known as the National Emission

Standards for Hazardous Air Pollutants (“NESHAP”). The ACHD incorporated by reference in Article XXI all of the NESHAP regulations. Article XXI, § 2104.08.a.

3. On December 26, 2007, the EPA issued the NESHAP for Glass Manufacturing Area Sources, 40 C.F.R., Part 63, Subpart SSSSSS (“Subpart 6S”). The NESHAP applied to any glass manufacturing facility that is an area source¹ of HAP emissions and uses one or more “continuous furnaces” to produce at least 50 tons per year (tpy) of glass that contains metal HAPs² as raw materials. 40 C.F.R. §§ 63.11448, 63.11449. An existing source subject to Subpart 6S was required to comply with the applicable emission limits by December 28, 2009.

4. Subpart 6S defines “continuous furnace” as a “glass manufacturing furnace that operates continuously except during periods of maintenance, malfunction, control device installation, reconstruction, or rebuilding.” 40 C.F.R. § 63.11459.

5. The NESHAP regulations require that a source subject to Subpart 6S obtain a Title V permit. 40 C.F.R. § 63.11449(e). The Subpart 6S regulations provide for additional requirements which include that any affected furnace must meet the applicable emission limits specified in 40 C.F.R. § 63.11451, and conduct a performance test, 40 C.F.R. § 63.11452.

6. Following the issuance of Subpart 6S, the EPA recognized that there was some confusion within the glass industry regarding the definition of “continuous furnace.” On April 12, 2016, the EPA prepared a determination letter to the Oregon Department of Environmental Quality (ODEQ) in which the EPA provided a “clarification” of the term “continuous furnace.” The EPA’s determination concerned a glass manufacturing facility in Portland, Oregon that

¹ An “area source” is a stationary source of HAP emissions that is not a major source. A major source of HAPs is a stationary source that emits or has the potential to emit 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAPs.

² Glass manufacturing metal HAP is defined as “an oxide or other compound of any of the following metals included in the list of urban HAP for the Integrated Urban Air Toxics Strategy and for which Glass Manufacturing was listed as an area source category: arsenic, cadmium, chromium, lead, manganese, and nickel.” 40 C.F.R. § 63.11459.

melts glass in a “batch process,” but the actual furnaces are continuously operated at “high temperatures at all times.” The EPA clarified that the term “continuous furnace” includes furnaces that are continuously heated. The EPA determined that because the furnaces at the Portland facility are “kept hot (operated)” at all times, the facility operates a “continuous furnace” and is therefore subject to Subpart 6S.

7. On February 3, 2020, the EPA issued a notice that a glass manufacturing facility in West Virginia was in noncompliance with Subpart 6S. The facility has seven “pot furnaces” in which “natural gas continues to be fired into the furnace chamber” between batches and “are heated 38 to 41 weeks per year.” The EPA determined that the furnace, which “remains heated until the pot or furnace requires maintenance,” is a “continuous furnace” subject to Subpart 6S.

II. FINDINGS

8. Kopp Glass, Inc. (hereinafter “Kopp Glass”) is a Pennsylvania corporation with a principal place of business at 2108 Palmer Street, Pittsburgh, Pennsylvania 15218.

9. Kopp Glass manufactures handmade technical and signal glassware, including lenses for lighting of airport runways and taxiways, exterior aircraft lighting, traffic control signals, walk signs and industrial and commercial lighting.

10. On June 15, 2010, the ACHD issued a Minor Source Operating Permit to Kopp Glass (Operating Permit #0264). At the time the ACHD prepared the permit, it was the ACHD’s understanding that Subpart 6S was only applicable if the glass making operations were continuous. The ACHD did not consider whether the actual furnaces were continuously operated (i.e., heated) when determining whether Subpart 6S was applicable. Based on this understanding, the ACHD determined that Kopp Glass was not operating a “continuous furnace” under Subpart 6S because its “glass products are produced in batches, and the furnaces are in operation only a portion of each work day.”

11. Following EPA's clarification of the term "continuous furnace" with regard to the glass manufacturing facilities in Oregon and West Virginia, the ACHD reevaluated whether Kopp Glass is subject to Subpart 6S.

12. On May 11, 2020, the ACHD submitted an information request to Kopp Glass for purposes of determining whether Kopp Glass is subject Subpart 6S. Kopp Glass provided the ACHD with this information on May 20, 2020.

13. On May 13, 2020, ACHD Air Quality Engineers performed a site visit of the facility and obtained additional information regarding Kopp Glass' operations for purposes of determining Subpart 6S applicability.

14. In its information response dated May 20, 2020, Kopp Glass provided furnace production data which indicated that Furnace No. 2 (12-pot furnace) has produced glass, which contains one or more of the glass manufacturing metal HAP as raw materials, at a rate of at least 50 tons per year (tpy). Furnace No. 2 (12-pot furnace) is continuously heated with natural gas and remains heated except during periods of maintenance, malfunction, control device installation, reconstruction, or rebuilding.

15. On June 5, 2020, the ACHD issued a determination that Kopp Glass is subject to the NESHAP for Hazardous Air Pollutants for Glass Manufacturing Area Sources, 40 C.F.R., Part 63, Subpart SSSSSS. Specifically, the ACHD determined that Furnace No. 2 (12-pot furnace) is subject to Subpart 6S.

16. On July 1, 2020, Kopp Glass filed a Notice of Appeal of the ACHD's June 5, 2020, determination that Kopp Glass is subject to Subpart 6S.

ORDER

NOW THEREFORE, pursuant to the authority granted to the ACHD by Article XXI § 2109.03.a.1 and the Local Health Administration Law, 19 P.S. § 12010, it is hereby **ORDERED** as follows:

- (a) Within thirty (30) days of the date of this Order, Kopp Glass shall submit a plan for compliance with the applicable emission limits specified in 40 C.F.R. § 63.11451, and for conducting performance testing under 40 C.F.R. § 63.11452. The compliance plan shall be subject to ACHD approval; and
- (b) Within sixty (60) days of the date of this Order, Kopp Glass shall submit to the ACHD a complete Title V Permit application.

17. Pursuant to Article XI (“Hearings and Appeals”) of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this Order you have thirty (30) days from the date of issuance or receipt of this Order in which to file an appeal. Such a Notice of Appeal shall be filed in the Office of the Director at 542 Fourth Avenue, Pittsburgh, PA 15219. A copy of Article XXI and Article XI may be found at <https://www.alleghenycounty.us/Health-Department/Health-Department-Regulations.aspx>.

18. This Order is enforceable upon issuance and any appeal of this Order shall not act as a stay unless the Director of the ACHD so orders.

19. Failure to comply with this Order within the times specified herein is a violation of Article XXI giving rise to the remedies provided by Article XXI § 2109.02 including civil penalties of up to \$25,000 per violation per day.

20. The provisions of this Order shall apply to, be binding upon, and inure to the benefit of the ACHD and Kopp Glass, and upon their respective officers, directors, agents, contractors, employees, servants, successors, and assigns.

DONE and **ENTERED** this 27th day of July, 2020, in Allegheny County, Pennsylvania.

For:

ALLEGHENY COUNTY HEALTH DEPARTMENT



James Kelly
Deputy Director for Environmental Health
Allegheny County Health Department

7/27/2020
Date