

claim upon which relief can be granted against Defendant under R.C. Chapters 3704, 3734 and 6111, and venue is proper in this Court.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon the Parties to this action, their agencies, agents, representatives, officers, directors, employees, subsidiaries or divisions, assigns and successors in interest and those persons acting in concert or participation with any of them with respect to matters covered herein, who receive actual notice of this Consent Order whether by personal service or otherwise. Defendant shall provide a copy of this Consent Order to any contractor engaged to perform any of the work required by this Order.

III. SATISFACTION OF STATE CLAIMS

3. Plaintiff alleges in its Complaint that Defendant has owned and operated a facility engaged in the production and manufacture of picture tubes (Ohio EPA premise number 0369000128) located at 700 North Pratt Street, Ottawa, Putnam County, Ohio (hereinafter "Facility") and that Defendant's Facility has been operated in such a manner as to result in violations of R.C. Chapters 3704, 3734 and 6111, and the regulations adopted thereunder. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability (including injunctive relief and civil penalties) on the part of Defendant and Defendant's agents, representatives, officers, directors, employees, contractors, parents, subsidiaries, divisions or affiliates for: (1) the claims or conditions alleged in the Complaint; (2) any actual or potential claims of noncompliance with the May 3, 1988 Consent Decree entered by this Court

in State of Ohio, ex rel. Celebrezze v. Philips Display Components Co., No. 87-180 (C.P. Putnam County); (3) any violations of the effluent limitations in Defendant's indirect discharge permit or categorical pretreatment standards by the Facility which occur prior to the applicable deadline for compliance set forth in ¶¶20 or 21, below; (4) any actual or potential claims for untimely compliance with hazardous waste unit closure requirements for those hazardous waste units identified in Section VI occurring prior to the deadlines for closure to be established pursuant to ¶16 below; and (5) any claims relating to the Attorney General's investigation, administrative or litigation costs relating to this action.

IV. RESERVATION OF RIGHTS

4. Except as set forth in Paragraph 3, nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek relief for any claims or conditions not alleged in the Complaint, including any such claims arising after the filing of the Complaint not otherwise addressed by this Consent Order, and nothing in this Consent Order shall be construed to relieve the Defendant of its obligations to comply with applicable federal, state or local statutes, regulations or ordinances.

5. Furthermore, nothing in this Consent Order shall limit the authority of the State of Ohio to bring any action to the extent authorized by law against Defendant or against any other person, under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, 42 U.S.C. Section 9601, et seq. and/or R.C. Sections 3734.20 through 3734.27 to: (1) recover natural resource damages, and/or (2) to enjoin the performance of, and/or recover costs for

any removal, remedial or corrective activities not conducted pursuant to the terms of this Consent Order, or to take any action authorized by law against any person, including Defendant, to eliminate or mitigate conditions at the Facility which may present an imminent and substantial threat to public health and environment.

6. Defendant denies the allegations in the Complaint. Defendant retains all rights, claims, defenses and privileges to which it is entitled under law or equity, including but not limited to the right to contest claims or allegations that may be asserted against it in the future. Defendant's agreement to this Consent Order and/or work performed to date at the Facility does not constitute an admission or adjudication of any liability, wrongdoing or misconduct on the part of the Defendant, its agents, representatives, officers, directors, employees, contractors, parents, subsidiaries, divisions or affiliates.

V. INJUNCTION

7. Defendant is hereby enjoined to comply with R.C. Chapters 3704, 3734 and 6111, the regulations adopted thereunder, and all permits and any subsequent renewals or modifications thereof issued thereunder, including, but not limited to, the following: Permit to Install requirements under OAC 3745-31-02; Permit to Operate requirements under OAC 3745-35-02; hazardous waste management requirements under R.C. Chapter 3734 and OAC Chapters 3745-50 through 3745-69; and, upon the applicable compliance deadline established under §§20 or 21, applicable pretreatment standards under R.C. Chapter 6111 and sampling requirements under OAC 3745-3-06.

8. In addition to the requirements of ¶7, Defendant is hereby enjoined to sample its industrial wastewater effluent once per month to determine compliance with applicable categorical pretreatment standards in OAC Rule 3745-3-10. All such samples are to be submitted to a certified laboratory for analysis and the results of all monthly samples are to be submitted to the Ohio EPA, Northwest District Office, prior to the end of the month following the month in which the sample was taken.

9. In addition to the requirements of ¶¶7 and 8, Defendant is enjoined to conduct a repeat sample and provide notice to the Ohio EPA in accordance with OAC Rule 3745-3-06 within 24 hours of receipt of each and every sample result exceeding any applicable daily maximum categorical standard listed in OAC Rule 3745-3-10.

10. Not less than two years after Defendant has (1) completed the requirements of Section VI and (2) achieved and maintained continuous compliance with the injunctions in ¶¶7-9 above for a period of two consecutive years following the completion of Section VI requirements, Defendant may move for an order terminating the injunctions in ¶¶7-9 pursuant to Civ. R. 60(B). Plaintiff takes no position with regard to such motion at this time, and reserves any rights it may have to oppose the motion. Such an order also may be granted upon joint motion of the Parties.

VI. SCHEDULES OF COMPLIANCE

A. Hazardous Waste Closure Requirements

11. Defendant is ordered and enjoined to perform closure at the Facility of the following hazardous waste units in accordance with applicable requirements under OAC Rule 3745-66-10 through 3745-66-20:

- (a) incinerator area
- (b) nitric acid storage area
- (c) drum storage area
- (d) sludge drying bed area

Incinerator Area

12. On December 21, 1993, the Director approved Defendant's closure plan for the incinerator area. Defendant has conducted closure work at this area, and on August 17, 1994, Defendant submitted to Ohio EPA a closure certification for this area. The closure certification shall comply with the terms and conditions of the approved closure plan and O.A.C. Rule 3745-66-15.

Nitric Acid Storage Tank Area

13. On August 12, 1994, the Director approved Defendant's closure plan for the nitric acid storage tank area. On August 10, 1995, Defendant then submitted an amended closure plan for review and approval by Ohio EPA for this area.

Drum Storage Area

14. On September 1, 1993, the Defendant submitted to Ohio EPA a closure plan for the drum storage area. On July 20, 1995, Ohio EPA notified Defendant that

the closure plan is deficient. On March 25, 1996, Defendant submitted an amended closure plan for review and approval by Ohio EPA for this area.

Sludge Drying Bed Area

15. On January 28, 1994, the Defendant submitted to Ohio EPA a closure plan for the sludge drying bed area. On November 3, 1995, Defendant was authorized by the Director of Ohio EPA, pursuant to OAC Rule 3745-27-13, to engage in excavating, drilling, filling, and constructing in this area. Condition numbers 8 and 11 of the November 3, 1995 authorization also require Defendant to submit a modified approvable closure plan and groundwater monitoring plan to Ohio EPA. On January 17, 1996, Defendant submitted a modified closure plan to Ohio EPA for review and approval for this area.

16. Upon approval by the Director of Ohio EPA of Defendant's closure plans for the Nitric Acid Storage Tank Area, Drum Storage Area and Sludge Drying Bed Area, Defendant is ordered and enjoined to implement the approved closure plans in the manner and pursuant to the timeframes set forth in the approved plans, any conditions attached to the approvals, and OAC Rules 3745-66-10 through 3745-66-20 and Rules 3745-65-90 through 3745-65-94. However, the injunctions under this Paragraph shall not apply to the extent any such Director's approval or condition thereof is stayed, modified, vacated or revoked pursuant to any ERAC appeal.

17. Any approval by the Director of any of Defendant's amended closure plans shall be issued as a final action of the Director appealable to the Ohio Environmental Review Appeals Commission. Defendant expressly retains and does

not waive its rights to appeal, challenge or seek a stay of any final action of the Director and nothing in this Consent Order shall be construed as limiting or restricting such rights.

B. Wastewater Improvements

18. Defendant reserves all rights to seek or apply for either (i) a modification of its indirect discharger's permit to convert its chromium effluent limits from concentration-based limits to mass-based limits or (ii) removal credits with regard to its chromium limits, and nothing herein shall be construed to limit or restrict such rights.

19. Chemistry-Based Testing of Chromium Pretreatment Process. Within 9 months after entry of this Consent Order, Defendant shall conduct bench-scale and/or full-scale testing of its wastewater chromium pretreatment process using hydrogen peroxide and/or other possible chemistry-based methods. Based upon the results of such testing, Defendant shall implement either Option 1 or Option 2 below, as appropriate.

20. Option 1. If, based upon the testing required in ¶19, Defendant concludes that no construction is necessary to achieve adequate chromium removal, Defendant shall implement the following compliance schedule:

12 months after entry

Submit a report to Ohio EPA describing the chemistry-based treatment method to be employed.

- | | |
|-----------------------|--|
| 15 months after entry | Complete full-scale conversion of chromium pretreatment process to the new chemistry-based treatment method. |
| 18 months after entry | Attain final compliance with applicable categorical pretreatment standards. |

21. Option 2. If, based upon the testing required in ¶19, Defendant concludes that construction is necessary to achieve adequate chromium removal, Defendant shall implement the following compliance schedule:

- | | |
|------------------------------|--|
| 12 months after entry | Prepare and submit a complete and approvable PTI application for needed improvements, including detail plans and specifications. |
| 1 month after PTI issuance | Award construction contracts. |
| 9 months after PTI issuance | Complete construction. |
| 10 months after PTI issuance | Attain final compliance with applicable categorical pretreatment standards. |

If Ohio EPA provides Defendant with written comments that the PTI application submitted pursuant to this paragraph is deficient or incomplete, Defendant shall, within 14 days, revise the application and resubmit the revised application to Ohio EPA; said resubmission shall fully address all noted deficiencies and/or incomplete areas identified in Ohio EPA's comments.

22. During the period of the compliance schedule set forth in this Section, Defendant is enjoined to meet all interim limits set forth in Exhibit A. Defendant is enjoined to meet the final limits set forth in its indirect discharge limit in accordance with the compliance schedule set forth herein.

C. De Minimis Recordkeeping.

23. With regard to any de minimis air source at the Facility having potential emissions greater than 10 pounds per day of any air contaminant (or more than one ton per year of hazardous air pollutants) Defendant shall maintain, in accordance with OAC Rule 3745-15-05, records adequate to show that: (i) actual emissions of any air contaminant from the source did not exceed 10 pounds per day on each day the source emitted air contaminants; (ii) the source in any one year did not emit more than one ton of hazardous air pollutants; and (iii) the emissions from the source, in combination with similar air contaminant sources at the Facility, did not result in potential emissions of any air contaminant from the Facility in excess of 25 tons during the preceding calendar year.

VII. SUBMITTAL OF DOCUMENTS

24. All documents required to be submitted to Ohio EPA pursuant to the terms of this Consent Order shall be submitted to:

Air Pollution

- (a) Ohio Environmental Protection Agency
Northwest District Office
Attention: Donald Waltermeyer
347 North Dunbridge Road
Bowling Green, Ohio 43402

Hazardous Waste

- (a) Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attention: RCRA Group Leader

- (b) Director, Ohio Environmental Protection Agency
P.O. Box 1049
1800 Watermark Drive
Columbus, Ohio 43266-0149
Attention: Manager, Compliance Monitoring & Enforcement Section
- (c) Director, Ohio Environmental Protection Agency
P.O. Box 1049
1800 Watermark Drive
Columbus, Ohio 43266-0149
Attention: Manager, Data Management Section
Division of Hazardous Waste Management (closure plan(s) only)

Wastewater

- (a) Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attention: Surface Water Group Leader

All notices/documents which must be submitted to Defendant under this

Consent Order shall be submitted to:

- (a) James Crutch
Sr. Environmental Engineer
Philips Display Components Co.
700 North Pratt Street
Ottawa, Ohio 45875-1599
- (b) Belinda W. Chew, Esq.
Senior Counsel
Philips Electronics North America Corporation
100 East 42 Street
New York, New York 10017

VIII. CIVIL PENALTY

25. Defendant is enjoined to pay to the State of Ohio a civil penalty of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000). Of this amount, Nine

Hundred Fifty Thousand Dollars (\$950,000) will be paid for Defendant's alleged violations of R.C. 3704; Three Hundred Thousand Dollars (\$300,000) will be paid for Defendant's alleged violations of R.C. 6111; and One Hundred Thousand Dollars (\$100,000) will be paid for Defendant's alleged violations of R.C. 3734. The penalty shall be paid as follows:

- a. Within thirty (30) days after entry of this decree, Defendant shall deliver to Plaintiff a certified check made payable to the Hazardous Waste Clean-Up Fund in the amount of \$25,000, pursuant to R.C. 3734.13.
- b. Within sixty (60) days after entry of this decree, Defendant shall deliver to Plaintiff a check in the amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000) made payable to the Treasurer, State of Ohio, pursuant to R.C. 3704.06.
- c. Within ninety (90) days after entry of this decree, Defendant shall deliver to Plaintiff a check in the amount of Three Hundred Thousand Dollars (\$300,000) made payable to Treasurer, State of Ohio, pursuant to R.C. 6111.09.
- d. The payment of Five Hundred Thousand Dollars (\$500,000) of the penalty for the alleged violations of R.C. 3704 is suspended on the condition that Defendant complies with the requirements of ¶26, which paragraph constitutes a supplemental environmental project.
- e. The payment of Two Hundred Twenty-Five Thousand Dollars (\$225,000) of the penalty for the alleged violations of R.C. 3704 and Seventy-Five

Thousand Dollars (\$75,000) of the penalty for the alleged violations of R.C. 3734 is suspended on the condition that Defendant complies with the requirements of ¶27, which paragraph constitutes a supplemental environmental pollution prevention project.

- f. All of the payments discussed above shall be in the form of certified checks and shall be delivered on or before the specified day to Jena Suhadolnik, Administrative Assistant, Office of the Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215.

IX. SUPPLEMENTAL ENVIRONMENTAL AND POLLUTION PREVENTION PROJECTS

26. As of the date this Consent Order is entered, Defendant is hereby permanently enjoined to vent all volatile organic compound (VOC) emissions from the six existing lacquer lines (Ohio EPA Source Nos. P167 through P173) and from the steam frit dryer (Ohio EPA Source No. P161), excluding emissions from the conveyor following the dryer, to a catalytic regenerative incinerator. Defendant is further enjoined to maintain the incinerator at a minimum operating destruction efficiency of ninety-five percent.

27. As of the date this Consent Order is entered, Defendant is hereby permanently enjoined to remove the solvent-based conveyORIZED degreasers (Ohio EPA Source Nos. L002, L003 and L008) from operation at the facility. Upon removal, these degreasers are to be replaced by water-based degreasers at the Delafoil facility. Defendant is further permanently enjoined from installing any new solvent-based

degreasers at its facility for the degreasing of parts that were formerly cleaned by L002, L003 and L008 (namely, masks, frames and internal magnetic shields).

X. STIPULATED PENALTIES

28. In the event that defendant fails to meet any of its obligations under Paragraphs 8 or 9 or Section VI of this Consent Order (except that: (a) no stipulated penalties are payable for noncompliance with the requirement of paragraph 16 regarding implementation of any amended closure plan approved by the Director of Ohio EPA; and (b) stipulated penalties for noncompliance with Paragraph 12 accrue only upon Defendant's failure to meet any deadlines set forth in Ohio EPA's written response, following the entry of this Consent Order, to the closure certification), then Defendant shall be liable for payment of a stipulated penalty according to the following payment schedule. For each day of failure to meet a requirement, up to thirty (30) days -- Two Hundred Fifty Dollars (\$250.00) per day for each requirement not met. For each day of failure to meet a requirement, from thirty-one (31) to sixty (60) days - - Five Hundred Dollars (\$500.00) per day for each requirement not met. For each day of failure to meet a requirement, from sixty-one (61) to ninety (90) days -- One Thousand Dollars (\$1,000) per day for each requirement not met. For each day of failure to meet a requirement, over ninety (90) days -- Two Thousand Dollars (\$2,000) per day for each requirement not met.

29. Payments required by this Section shall be paid by delivering a certified check to Plaintiff, c/o Jena Suhadolnik, Administrative Assistant, or her successor, Environmental Enforcement Section, Ohio Attorney General's Office, 30 East Broad

Street, 25th Floor, Columbus, Ohio 43266-0410. The check shall be made payable to "Treasurer, State of Ohio".

XI. THE CONSENT DECREE ENTERED ON MAY 3, 1988 IS SUPERSEDED

30. This Consent Order entered into between the Parties will supersede the May 3, 1988 Consent Decree entered by this Court in *State of Ohio, ex rel. Celebrezze v. Philips Display Components Co.*, No. 87-180 (C.P. Putnam Cty).

XII. TERMINATION OF STIPULATED PENALTIES

31. Not less than one year after Defendant has (1) completed the requirements of Section VI and (2) achieved and maintained continuous compliance with the limits in its indirect discharge permit for a period of one consecutive year following the completion of Section VI requirements, Defendant may move for an order terminating the provisions of Section X requiring payment of stipulated penalties pursuant to Civ. R. 60(B). Plaintiff takes no position with regard to such motion at this time, and reserves any rights it may have to oppose the motion. Such an order also may be granted upon joint motion of the Parties.

XIII. RETENTION OF JURISDICTION

32. This Court will retain jurisdiction of this action for the purpose of administering and enforcing this Consent Order.

XIV. POTENTIAL FORCE MAJEURE

33. If any event occurs which causes or may cause a delay of any requirement of this Consent Order, Defendant shall notify the Ohio EPA, Northwest District Office, in writing as soon as possible, but in no case later than fourteen (14)

days after the event, describing in detail, to the extent such information is known, the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Defendant to prevent or minimize the delay and the timetable by which measures will be implemented. Defendant will adopt all reasonable measures to avoid or minimize any such delay.

34. In any action by the Plaintiff to enforce any of the provisions of this Consent Order, Defendant may raise that it is entitled to a defense that its conduct was caused by reasons entirely beyond its control such as, by way of example and not limitation, acts of God, strikes, acts of war or civil disturbances. While the Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Defendant and the Plaintiff that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an action to enforce the terms and conditions of this Order, if any, is commenced by Plaintiff. At that time, the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Defendant shall rest with Defendant. Unanticipated or increased costs associated with the implementation of any action required by this Consent Order, or changed financial circumstances, shall not constitute circumstances entirely beyond the control of Defendant or serve as a basis for an extension of time under this Consent Order. Failure by Defendant to comply with the notice requirements of the preceding paragraph shall be grounds for Plaintiff to deny, in its sole discretion, any extension of the compliance schedule based on such incident. An extension of one

compliance date based on a particular incident does not automatically extend any subsequent compliance date or dates. Defendant must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought. Acceptance of this Consent Order without a Force Majeure Clause does not constitute a waiver by Defendant of any rights or defenses it may have under applicable law.

XV. COSTS

35. Defendant is hereby ordered to pay all court costs of this action.

XVI. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

36. The Parties agree and acknowledge that final approval by the Plaintiff and Defendant and entry of this Consent Order are subject to the requirements of 40 C.F.R. §123.27(d)(1)(iii), which provides for notice of the lodging of this Consent Order, opportunity for public comment, and the consideration of any public comment. The Plaintiff and Defendant reserve the right to withdraw consent to this Consent Order based on comments received during the public comment period. Defendant shall pay the cost of publishing the public notice on one day in a local newspaper of general circulation.

37. Upon the signing of this Consent Order by the Court, the clerk is hereby directed to enter it upon the journal. Within three days of entering the judgment upon the journal, the clerk is hereby directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Civ. R. 5(B) and note the service in the appearance docket.

IT IS SO ORDERED

DATE August 21, 1997

Andall Boney
JUDGE
PUTNAM COUNTY COURT OF
COMMON PLEAS

APPROVED:

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

Susan E. Ashbrook

SUSAN E. ASHBROOK (00394830)
DAVID G. COX (0042724)
Assistant Attorneys General
Environmental enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428
(614) 466-2766

Counsel for Plaintiff,
State of Ohio.

APPROVED AS TO FORM:

Vincent Atriano

VINCENT ATRIANO (0041084)
Squire, Sanders & Dempsey L.P.
Huntington Center
41 South High Street
Columbus, Ohio 43215-6150
(614) 365-2783

Counsel for Defendant,
Philips Electronics North America Corp

COMMON PLEAS COURT
97 AUG 21 PM 4: 03
JERRY E. WIENER, CLERK
PUTNAM COUNTY, OHIO

APPROVED AS TO FORM AND
SUBSTANCE:

PHILIPS ELECTRONICS NORTH AMERICA
CORPORATION

BY: Alan K. Hegedus
Alan Hegedus

TITLE: President, Philips Display
Components

EXHIBIT A

**INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS
OUTFALL 2PD00028100**

<u>EFFLUENT CHARACTERISTIC</u>			<u>DISCHARGE LIMITATIONS</u>		<u>MONITORING REQUIREMENTS</u>	
Reporting Code	Units	Parameter	Concentration Specified Units daily max.	monthly average	Meas. Freq.	Sample Type
00058	GPD	Flow unregulated			1/month	24 hr. total
00402	S.U.	pH	Not to be less than 5.0 at any time		1/month	Grab
00951	mg/l	Fluoride, total	35	18	1/month	Composite
01027	ug/l	Cadmium, total	60	30	1/month	Composite
01034	ug/l	Chromium, total	-	650	1/month	Composite
01051	ug/l	Lead, total	1120	410	1/month	Composite
01092	ug/l	Zinc, total	1380	560	1/month	Composite
50050	MGD	Flow	-		1/month	24 hr. total
82090	ug/l	TTO	1580		1/month	See Part II

1. Samples shall be collected from the effluent sump, which is downstream of the clarifier before the treated wastewaters are mixed with any nonprocess wastewaters in Building 19-A.
2. The above limitations are based on a process flow of 779,000 gallons per day and an unregulated flow of 13,000 gallons per day.

OHIO JUDICIAL BRANCH
 COMMON PLEAS COURT
 97 AUG 21 PM 4:13
 MARY E. WIENER, CLERK
 PUTNAM COUNTY, OHIO