

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Kornylak Corporation
400 Heaton Street
Hamilton, Ohio 45011

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Director's Final Findings
and Orders

RESPONDENT

OHIO E.P.A.
JUL -5 2002
ENTERED DIRECTOR'S JOURNAL

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Kornylak Corporation ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under R.C. 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership relating to the facility identified in Finding 1 shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in R.C. Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings of fact:

1. Respondent is the owner and operator of a facility that fabricates metal parts including skate wheels and load transfer track systems. This facility, which is located at 400 Heaton Street, Hamilton, Ohio, employs process equipment, including an open top vapor degreaser, in-line vapor degreaser, and a skate wheel dip tank.

2. The process equipment identified in Finding 1 each constitute an "air contaminant source," as defined by Ohio Administrative Code ("OAC") Rules 3745-31-01(D) and 3745-35-01(B)(1). The open top vapor degreaser, in-line vapor degreaser, and skate wheel dip tank emit volatile organic compound ("VOC") emissions, and are identified by Ohio EPA as emissions units L001, L002, and K002, respectively.

3. On December 17, 1997, permit to install ("PTI") 14-4350 was issued to Respondent for emissions units L002 and K002 pursuant to OAC Rule 3745-31-02. A PTI was not required for emissions unit L001 since this unit was in operation before 1974. On June 30, 1998, permits to operate ("PTOs") were issued to Respondent for emissions units L002 and K002. On November 9, 1995, a PTO was issued to Respondent for emissions unit L001, which expired on November 9, 1998. On October 2, 1998, Respondent submitted a renewal PTO application for emissions unit L001.

4. Emissions units L001 and L002 are subject to the requirements of OAC Rule 3745-21-09(O)(3) and (O)(4), respectively. In addition, emissions units L001 and L002 are subject to the standards promulgated under 40 CFR, Part 63, Subpart T, Maximum Achievable Control Technology ("MACT"). Section 63.460 ("Applicability and Designation of Source") of Subpart T requires that each solvent cleaning machine subject to this subpart achieve compliance with the provisions of this subpart no later than December 2, 1997. Emissions unit K002 is not subject to MACT standards, but is subject to the requirements of OAC Rules 3745-21-09(B) and 3745-21-09(U)(1).

5. On June 15, 1999, OAC Rule 3745-21-09 was amended, in part, to exempt from the requirements of paragraphs (O)(2) through (O)(5) as of the effective date of the rule, "any solvent metal cleaning operation which is subject to Subpart T of 40 CFR Part 63, provided the requirements of that Subpart T are specified in the Terms and Conditions of a permit to operate issued pursuant to rule 3745-35-02 of the Administrative Code." Emissions units L001 and L002 met the requirements for this exemption.

6. On August 10, 1999, Hamilton County Department of Environmental Services ("HAMCO"), Ohio EPA's contractual representative in Butler County, conducted an inspection of the facility to determine compliance with applicable air regulations. On August 18, 1999, a notice of violation ("NOV") was issued by HAMCO to Respondent for air permit violations. The NOV cited several violations of Respondent's PTI and PTO requirements for emissions units L001, L002 and K002, including violations due to deficient monitoring, record keeping, and reporting. In addition, potential violations of the MACT standards for the two degreasers (emissions units L001 and L002) were cited in the NOV. Respondent was further requested in the NOV to submit required reporting information for the period from December 1997 to August 18, 1999 along with a compliance plan to HAMCO by September 17, 1999, in order to bring emissions units L001, L002, and K002 into compliance with the terms and conditions of its PTI and PTOs. Respondent had

already submitted a PTO renewal application on October 2, 1998 prior to the expiration of the PTO. To date, Ohio EPA has not acted on the PTO renewal application.

7. On September 17, 1999, Respondent submitted a request to HAMCO for an extension of time to October 8, 1999, to address the violations and submit the compliance plan requested in the August 18, 1999 NOV. On October 4, 1999, HAMCO received from Respondent a compliance plan dated September 30, 1999 for emissions units L001, L002 and K002.

8. On February 2, 2000, HAMCO issued a second NOV to Respondent for air permit violations. HAMCO had received some of the requested information in response to the August 18, 1999 NOV on January 5, 2000; however, several issues remained outstanding. Respondent failed to submit all the reports required by its PTOs and PTI including the Initial Statement of Compliance report for emissions units L001 and L002. Additional violations cited in the NOV include monitoring and record keeping violations for emissions units L001 and L002. Respondent was further requested in the NOV to submit the Initial Statement of Compliance report for these emissions units and the record keeping information required by 40 CFR, Part 63.464(a)(1) to HAMCO by February 10, 2000.

9. On February 18, 2000, Respondent replied to the February 2, 2000 NOV. Respondent indicated that the operator of emission unit L002 had been incorrectly taking readings for the chilled air blanket during working mode rather than idling mode, and that idling mode temperatures were in compliance with the applicable standard. The letter further indicated that the correct solvent usage forms have been implemented at emissions unit L001 and that emissions were approximately 50 percent of the limit.

Finally, the letter stated that Respondent had incorrectly assumed that information submitted in the January 5, 2000 letter represented a statement of compliance and information submitted on May 5, 1997 represented the initial statement of compliance.

In the submittal dated February 18, 2000, Respondent submitted the initial statement of compliance, statement of compliance, and annual report for emissions unit L001 and that it was working on the same for emissions unit L002.

10. On February 24, 2000, Respondent submitted forms for emissions units L001 and L002, including initial statement of compliance, statement of compliance, and annual report. Also included was an annual statement of potential emissions. The letter indicated it was a correction of the emissions unit L001 forms submitted the prior week and dated February 18, 2000.

11. On May 8, 2000, Respondent submitted a letter including what Respondent believed were appropriate MACT reports for previous years for emission units L001, L002, and K002 per HAMCO's fax request of May 5, 2000. This submittal was supplemented on

May 11, 2000 with correct reports for emissions unit K002. Respondent indicated that similar corrected reports on appropriate forms were being prepared for emissions unit L001 and L002.

12. On July 10, 2000, Respondent submitted the rolling, three month average emission reports for emissions units L001, L002 and K002 indicating no violations of the permit requirements. On July 21, 2000, HAMCO e-mailed Respondent that the reports should be resubmitted and indicated the necessary corrections.

13. On January 21, 2001, Respondent submitted an annual statement of compliance and material usage report for the year 2000 for emissions unit L001.

14. On March 2, 2001, HAMCO issued a third NOV to Respondent for air permit violations. Respondent failed to submit some delinquent reports for emissions unit L001 and L002 that were requested by HAMCO in the previous two NOVs or additional information for those reports received by HAMCO that were determined to be incomplete. The letter cited deficiencies in Respondent's submittals to date. Respondent was requested by HAMCO in the NOV to submit all delinquent reports and additional information by March 14, 2001. On March 13, 2001, Respondent submitted a letter, by fax, to HAMCO indicating it had received the NOV, that it had thought the reports submitted had satisfied outstanding issues, and that facility records would be reviewed regarding the delinquent information specified in the NOV.

15. On March 14, 2001, Respondent filed a report indicating there were no exceedances for emissions unit L001 and L002 during the year 2000.

16. Special term and condition ("STC") #2 in PTO #1409040156 issued on November 9, 1995, for emissions unit L001, specified that Respondent comply with all applicable sections of 40 CFR, Part 63, Subpart T, on or before December 2, 1997. The requirements of this section included the submission of an Initial Statement of Compliance, annual solvent emission report, and semi-annual exceedance reports. The Initial Statement of Compliance due May 1, 1998, was received by HAMCO on February 25, 2000. Annual solvent emission reports were due beginning February 1, 1998 and every February 1 of each year thereafter to cover the previous calendar year. Reports for years 1997 and 1998 have not been received by HAMCO. The annual solvent emission report for year 1999, due February 1, 2000, was received by HAMCO on February 22, 2000. In addition, semi-annual exceedance reports have not been received from the Respondent. These reports were due beginning on January 30, 1998, covering the previous six-month period, and due every July 30 and January 30 of each year thereafter. If there were no exceedances during the six-month period, a statement is required stating so. Respondent's failure to submit the required reports constitutes a violation of the terms and conditions of the PTO and a violation of R.C. 3704.05(C) and 40 CFR, Part 63, Subpart T.

17. As specified in the above-mentioned PTO and pursuant to 40 CFR, 63.464(a)(1), Respondent is required to maintain a log of solvent additions and deletions for each solvent cleaning machine and a demonstration that organic compound emissions are equal to or less than 150 kg/m²/month, based on a 3-month rolling average. Compliance with this requirement was to be achieved by December 2, 1997. During the inspection conducted on August 10, 1999, no such log was found to be maintained for emissions unit L001. Further records indicate that Respondent achieved compliance with this requirement on April 6, 2000. This constitutes a violation of the terms and conditions of the PTO and a violation of R.C. 3704.05(C) and 40 CFR, Part 63, Subpart T.

18. As specified in the PTI, STC J, for emissions unit L002, Respondent was required to submit an Initial Statement of Compliance by May 1, 1998 pursuant to 40 CFR, Part 63, Subpart T. The Initial Statement of Compliance was received by HAMCO on February 25, 2000. This constitutes a violation of the terms and conditions of the PTO and a violation of R.C. 3704.05(C) and 40 CFR, Part 63, Subpart T.

19. As specified in the PTI, STC K, and the PTO, Section D.1.a, issued on June 30, 1998, for emissions unit L002, Respondent is required to submit annual reports by February 1 of each year for the preceding calendar year. These reports are required to contain an estimate of solvent consumption during the reporting period and a signed statement from the facility owner or designee stating "All operators of solvent cleaning machines have received training on the proper operation of solvent cleaning machines and their control devices sufficient to pass the test required pursuant to 40 CFR, Part 63.463(d)(10)." The annual report for calendar year 1999 was received by HAMCO on January 7, 2000, which is in compliance with the filing deadline for this report. However, the annual reports for calendar years 1997 and 1998 have not been filed with HAMCO. Respondent's failure to submit the required reports constitutes a violation of the terms and conditions of the PTO and a violation of R.C. 3704.05(C) and 40 CFR, Part 63, Subpart T.

20. As specified in the PTI, STC L, and the PTO, Section D.2, issued on June 30, 1998, for emissions unit L002, Respondent is required to submit semi-annual exceedance reports by February 15 and July 15 of each year to HAMCO. Respondent has not filed these reports with HAMCO for years 1997 and 1998. The 1999 report is incomplete. Failure to submit the required reports constitutes a violation of the terms and conditions of the PTO and a violation of R.C. 3704.05(C) and 40 CFR, Part 63, Subpart T.

21. As specified in the PTI, STC E, and the PTO, Section C.1, issued on June 30, 1998, for emissions unit L002, Respondent is required to monitor, on a weekly basis, the freeboard refrigeration device by using a thermometer or thermocouple to measure and record the temperature at the center of the air blanket during idling mode. Failure to monitor, record and maintain such records is a violation of the terms and conditions of the PTO and a violation of R.C. 3704.05(C) and OAC Rule 3745-21-09(O).

22. As specified in the PTI, STC F, and the PTO, Sections A.2.a and C.2, issued on June 30, 1998, for emissions unit L002, Respondent is required to monitor and record the results, on a monthly basis, of visual inspections to determine if the idling-mode cover is opening and closing properly, completely covers the cleaning machine openings when closed, and is free of cracks, holes and other defects. Respondent has failed to monitor and record monthly results of visual inspections for the idling-mode cover. Failure to monitor and record and maintain such records is a violation of the terms and conditions of the PTO and a violation of R.C. 3704.05(C) and OAC Rule 3745-21-09(O).

23. As specified in the PTI, STC G, and the PTO, Section C.3, issued on June 30, 1998, for emissions unit L002, Respondent is required to monitor and record on a monthly basis the conveyor speed for emissions unit L002. During the inspection conducted on August 10, 1999, no monitoring records were found to be maintained by Respondent since the permits were issued. Respondent did indicate on September 30, 1999, that the machine is physically limited to 8 ft./min., and thus could not exceed the standard of 11 ft./min. Failure to monitor and record and maintain such records is a violation of the terms and conditions of the PTO and a violation of OAC Rule 3745-21-09(O), R.C. 3704.05(C), and 40 CFR, Part 63, Subpart T.

24. As specified in the PTI, STC U, and the PTO, Section C.1, issued on June 30, 1998, for emissions unit K002, Respondent is required to collect and record, on a monthly basis, the name and identification of each coating and cleanup material, the total number of gallons of each coating and cleanup material employed, and the VOC content of each coating and cleanup material employed. During the inspection conducted on August 10, 1999, no monthly records were being maintained by Respondent since the permits were issued. Failure to record and maintain the required monthly records constitutes a violation of the terms and conditions of the PTO and a violation of OAC Rule 3745-21-09(B)(3) and R.C. 3704.05(C).

25. As specified in the PTI, STC V and the PTO, Sections D.1 and D.2, and Part 1, General Terms and Conditions, issued on June 30, 1998, for emissions unit K002, Respondent is required to notify the Director, in writing, of any monthly record showing an exceedance of the VOC content limitations. In addition, Respondent is required to submit annual reports that specify the total amount of coating and cleanup material employed in this emissions unit for the calendar year. Since no records were maintained, as outlined in Finding 18 above, compliance with the VOC content limitations and the annual coating and cleanup material usage restrictions cannot be determined. Respondent has failed to file all the required reports with HAMCO. Failure to submit the required reports is a violation of the terms and conditions of the PTO and a violation of OAC Rule 3745-21-09(B)(3) and R.C. 3704.05(C).

26. On December 4, 2001, HAMCO conducted an inspection of the facility to determine compliance with the applicable air regulations. On December 28, 2001, a NOV was issued to Respondent that outlined administrative issues regarding emissions units L001 and L002 and specified violations of the terms and conditions of the PTI for emissions unit K002. Based on the MSDS information supplied by the Respondent, HAMCO determined the Respondent had exceed the VOC emission limitation of 6.85 pounds of VOC per gallon. Additionally, the Respondent had not kept records of the monthly quantity of solvent/cleanup materials used or the monthly VOC emission rate. Compliance with the VOC emission limitation and the record keeping requirements is specified in the PTI for emissions unit K002. These actions constitute violations of R.C. 3704.05(C).

27. On January 14, 2002, HAMCO received a response from Respondent pursuant to the December 28, 2001, NOV. The NOV response from the Respondent indicated the information on the MSDS previously supplied to HAMCO was in error. HAMCO's December 28, 2001 letter to the Respondent asked for the exact amount of solvent that the Respondent added to the coating material PR-4145 per gallon so that an "as applied" VOC content could be determined. Since this information was not included in the Respondent's January 14, 2002 response, HAMCO requested that the VOC content of the "as applied" coating material be determined by sampling and laboratory analysis. HAMCO made the sampling request in a letter of January 30, 2002, to the Respondent.

28. Since approximately two years ago and until on or about May 24, 2002, Respondent had been measuring the temperature of the water in a chilled water pan rather than at the center of the air blanket during idling mode of emissions unit L002, in violation of term and condition E of the PTI, term and condition C.1 of the PTO, and R.C. 3704.05(G). In a letter dated May 24, 2002, to HAMCO, Respondent noted that it had added a chilled water pan to the freeboard area to ensure that freeboard air temperatures would meet the permit requirements. Respondent verified that the air temperature and the water temperature were the same and faxed the results to HAMCO on May 17, 2002. Respondent further indicated that it had relocated the temperature probe, and temperature is now measured at the center of the air blanket.

29. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall comply with all applicable monitoring, record keeping and reporting requirements, pursuant to OAC Chapter 3745-21 and the terms and conditions of any permit issued by Ohio EPA for Respondent's facility.

2. Pursuant to R.C. 3704.06, Respondent is assessed a civil penalty in the amount of thirty thousand dollars (\$30,000) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of fifteen thousand dollars (\$15,000) of the total penalty amount. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to Vicki Galilei, Fiscal Specialist, or her successor, at the following address:

Ohio Environmental Protection Agency
Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

The remaining fifteen thousand dollars (\$15,000) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Respondent shall deliver a certified check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban area tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry
Ohio Department of Natural Resources
1855 Fountain Square Court, H-1
Columbus, Ohio 43224-1327

A copy of both checks shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent's facility.

VII. NOTICE

All documents required by these Orders, unless otherwise specified in writing, shall be submitted to:

Hamilton County Department of Environmental Services
250 William Howard Taft Road
Cincinnati, OH 45219-2660
Attention: Harry Schwietering

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Lazarus Government Center
P.O. Box 1049
Columbus, OH 43216-1049
Attention: Thomas Kalman

VIII. RESERVATION OF RIGHTS

Nothing contained herein prevents Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein prevents Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities at the facility pursuant to R.C. Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of Respondent's facility.

IX. MODIFICATIONS

These Orders may be modified by mutual agreement of the parties. Modifications shall be in writing and shall be effective on the date entered in the Journal of the Director of Ohio EPA.

X. SIGNATORIES

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to this document.

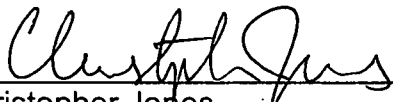
XI. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's civil liability for the specific violations cited herein. Respondent hereby waives the right to appeal the issuance, terms, and service of these Orders and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such an appeal. In such event, Respondent shall continue to comply with these Orders unless these Orders are stayed, vacated, or modified.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

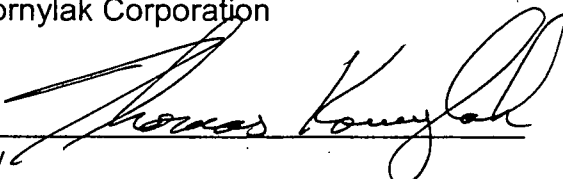


Christopher Jones
Director

7-2-02
Date

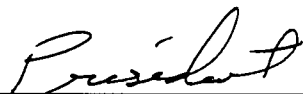
IT IS AGREED:

Kornylak Corporation



By

6/13/02
Date



Title