

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

MAR 31 2005

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Key Plastics L.L.C.
21700 Haggert Road
Suite 100N
Northville, MI 48167

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Key Plastics L.L.C. ("Respondent") pursuant to the authority vested in the Director of Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 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 of the Respondent or of the facility (as identified hereafter) 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 defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operated a plastic automotive parts painting and coating facility located at 700 Randolph Street in Montpelier, Williams County, Ohio (Ohio EPA premise number 0386000027).

I certify this to be a true and accurate copy of the
official document as filed in the records of the Ohio
Environmental Protection Agency.

3-31-05

2. At the Montpelier facility, Respondent operated four paint departments (Departments A, B, C, and D) and one test paint booth. The four paint departments and test paint booth, which consist of 13 separate emissions units ("EUs"), were each an "air contaminant source" as defined by Ohio Administrative Code ("OAC") Rules 3745-31-01(I) and 3745-15-01(C) and (W). A description of the EUs is given in the following table:

Table 1. EU Numbers, Descriptions and Installation Dates (PTI modification dates in bold)

<u>EU #</u>	<u>EU Description</u>	<u>Installation Date</u>	<u>PTI # / Issue Date</u>
K001	plastic and metal parts paint booth	1989	03-4376 / 6-13-90 03-10757 (mod) / 12-21-98
L001	mask washer	1986	03-10757 / 12-21-98
L002	mask washer (old P004)	1996	03-6797 / 12-16-96
R028	plastic parts spray booth	1989	03-4376 / 6-13-90 03-10757 (mod) / 12-21-98
R029-R032	plastic parts spray booths	9/89	03-4376 / 6-13-90 03-10757 (mod) / 12-21-98
R034	plastic parts spray booth	6/91	03-6080 / 10-31-91 03-10757 (mod) / 12-21-98
R039	test paint booth	6/89	03-6525 / 9-2-92 03-10757 (mod) / 12-21-98
R040	plastic parts spray booth	10/92	03-3790 / 12-12-86 03-10757 (mod) / 12-21-98
R043	plastic parts spray booth	11/92	03-3790 / 12-12-86 03-10757 (mod) / 12-21-98
R044	plastic parts spray booth	10/92	03-3790 / 12-12-86 03-10757 (mod) / 12-21-98

3. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704.

4. Each of the 13 EUs described in the table of Finding 2 emitted organic compounds ("OC"), as defined by OAC Rule 3745-21-01(B)(4), and was subject to the OC emission control requirements of OAC Rule 3745-21-07(G)(2).

5. ORC § 3704.05(J)(2) states, in part, that no person shall violate any applicable requirements of a Title V permit or any permit condition, except for an emergency as defined in Chapter 40 of the Code of Federal Regulations ("40 CFR") 70.6 (g), or filing requirement of the Title V permit program.

6. OAC Rule 3745-77-01(W)(1) states, in part, that a "major source" of air pollutants is defined as any stationary source that emits, or has the potential to emit ("PTE"), 10 tons per year ("TPY") or more of any hazardous air pollutant ("HAP"), or 25 TPY or more of any combination of HAPs, or 100 TPY or more of any criteria air pollutant.

7. OAC Rule 3745-21-07(G)(2) states, in part, that any owner or operator of a coating booth employing photochemically reactive materials ("PRMs") shall not emit OC in amounts greater than 40 pounds in any one day, and 8 pounds in any one hour, unless such emissions have been reduced by at least 85 percent, except as specified by rule. Since this facility had a PTE greater than 100 tons per year of OC, it was subject to OAC Rule 3745-21-07(G)(2) pursuant to OAC Rule 3745-21-07(A).

8. On September 11, 2002, Ohio EPA's Northwest District Office ("NWDO") sent a warning letter to the Respondent to bring attention to its failure to submit quarterly, semi-annual and annual deviation reports for the period from January 2002 to September 2002 in accordance with the General Terms and Conditions and Specific Emissions Unit Terms and Conditions of its final Title V permit issued on January 30, 2002, in violation of ORC § 3704.05(C) and (J)(2). The letter also requested the Respondent to submit all required deviation reports with 30 days of receipt of the letter. None of the reports were submitted as of March 2003.

9. On March 4, 2003, NWDO sent a Notice of Violation ("NOV") letter to Respondent summarizing the failure to submit deviation reports for the period from January 2002 to March 2003 and alleging that annual Title V fee emission reports ("FERs") for years 2001 and 2002 were not submitted. The NOV indicated that the Respondent was sent a certified warning letter back in September 2002 requesting past due quarterly, semi-annual and annual reports to comply with the Title V requirements. The Respondent failed to submit the reports requested. The failure to timely submit these reports was a violation of ORC § 3704.05(C) and (J)(2) and the alleged failure to submit annual Title V fee emission reports would be a violation of the section.

10. Additionally, the March 4, 2003 NOV letter informed the Respondent that in order to resolve the violations, it needed to submit a compliance plan and schedule detailing the steps it would take to correct the violations including the submission of all past due quarterly, semi-annual, and annual reports since the issuance of the Title V permit on January 30, 2002. This information was to be submitted to Ohio EPA by April 5, 2003.

11. The Respondent contacted NWDO to request an extension of the April 5, 2003 deadline for submission of a compliance plan and schedule requested per the NOV dated March 4, 2003. The Respondent also requested a meeting with Ohio EPA to discuss possible violations of the emission limitations set forth in the Title V permit and ways to rectify the violations.

12. On April 21, 2003, NWDO met with the Respondent and learned the Respondent was in the process of shifting production of the allegedly non-compliant coating lines onto other lines to bring the emissions units back into compliance with limitations established by OAC Rule 3745-21-07(G)(2). The Respondent also planned on placing usage restrictions of some of the lines to stay below the hourly and daily OC emission limits.

13. On April 29, 2003, the Respondent submitted all past due quarterly, semi-annual, and annual deviation reports to NWDO. Due to administrative errors, amended reports were re-submitted on May 1, 2003 and June 1, 2003. These reports indicated that there were multiple permit limit deviations and that the deviations were not discovered until the Respondent conducted a thorough investigation of the recordkeeping documents prepared by ETI of Lapeer, Michigan (Environmental Consultant). Additionally, the letter states the Respondent would complete full implementation of the product rate modifications, change of reducer, and operational controls by May 5, 2003.

14. Upon review of the reports submitted, Ohio EPA sent another NOV dated June 17, 2003 to the Respondent. The NOV alleged that there were over 500 deviations from the 8 pounds per hour ("lbs/hr") and 40 pounds per day ("lbs/day") emission limits, which were in violation of OAC Rule 3745-21-07(G)(2) and ORC § 3704.05(A), (C), (G) and (J)(2). The NOV also stated that the Respondent had already taken actions to correct the deviations including production rate modifications, change of reducer to acetone, and operational controls, which all took into effect on May 5, 2003. Ohio EPA accepted these actions as viable solutions to correct the violations.

15. The June 17, 2003 NOV also requested that the Respondent submit deviation/excursion reports on a monthly basis versus a quarterly basis for July 2003 through December 2003 to ensure continuing compliance and to make sure that the actions the Respondent had proposed were being implemented and working.

16. On December 3, 2003, NWDO conducted a follow-up inspection to the inspection conducted at the facility earlier in the year. Respondent met with Ohio EPA on December 17, 2003 to discuss the monthly reports submitted and if they indicated compliance. On December 24, 2003, the Respondent submitted revised monthly reports to NWDO.

17. At that time, Ohio EPA alleged that EUs R030, R034, R040, R043 and R044 had been operating in violation of OAC Rule 3745-21-07(G)(2) from January 2002 through March 2003. Based on the deviation reports submitted by the Respondent, the EUs listed above were in violation for approximately 565 days. Furthermore, Respondent exceeded

the short-term OC emission limitations in PTI (#03-10757) and the Title V permit for approximately 141 days for EUs R030, R034, R044, R043 and R044.

18. On January 7, 2004, NWDO sent a letter to the Respondent summarizing the inspection conducted at the facility on December 3, 2003. The following findings were noted during the December 3, 2003 inspection:

a. As of April 24, 2003, the Respondent changed the solvent reducer to acetone. The Respondent also submitted monthly reports for the months January 2002 through March 2003. Based on additional reports for April through November 2003, the Respondent exceeded the short-term OC emission limitation on 12 occasions for EU R040 and 6 occasions for EUs R034, R040 and R044, in violation of the PTI (#03-10757), the Title V permit and ORC § 3704.05(C), (G) and (J)(2).

b. Additionally, there were no visible emissions ("VE") from the stacks serving the coating operations.

c. The following plastic parts painting booths were dismantled and removed from the facility: EUs R009, R012, R014, R036, R038, R011, R013, R035, R037 and R042.

d. The Respondent was fulfilling the monitoring and recordkeeping requirements specified in the Title V permit.

19. Ohio EPA and Respondent had some subsequent meetings to discuss the resolution plan and decided that the Respondent should request an administrative modification of the PTIs for EUs R040 and R044. The Respondent committed to submitting an application to Ohio EPA by January 9, 2004. Once the PTI was modified, the Respondent must submit a Title V permit modification application to reflect the new emission limitations. Additionally, in order to ensure continuing compliance, Ohio EPA requested the Respondent to submit deviation/excursion reports on a monthly basis from January 2004 through June 2004, in addition to all of the Title V required reports.

20. On January 8, 2004, NWDO received the PTI modification application for EUs R030, R032, R040, R043 and R044, wherein, in part, the hourly OC emission limits (excluding the 8 lb/hr limits from 3745-21-07(G)(2)) were requested to be modified. On January 28, 2004, Ohio EPA issued the PTI for EUs R040 and R044. To date, NWDO has not received a Title V permit modification application from the Respondent, which is due within 12 months after the PTI modification was issued.

21. Respondent operated emission units R030, R040, and R044 in violation of the hourly OC emission limitations specified in the Title V permit, which were based on the Best Available Technology ("BAT"), on unspecified days from January 2002 through March 2003. These exceedances constituted violations of the Title V permit and ORC § 3704.05 (C) and (J)(2). On January 28, 2004, Ohio EPA issued the modified PTI, which increased the OC emission allowables for these emissions units.

22. In a letter dated August 31, 2004, the Respondent submitted a notification to NWDO stating that the facility was no longer in operation, including all of the EUs. All production operations at the facility ceased on July 16, 2004, and the facility was scheduled to be vacated by mid-September 2004. Additionally, the letter stated the facility would continue to submit all appropriate reports until January 2007 (Title V permit expiration), even though the EUs were no longer in operation.

23. On September 8, 2004, the Respondent contacted NWDO to inform it that EUs R040, R043 and R044 would continue operation for about 4 to 6 weeks to catch up on some backlog and would inform NWDO when the operations will shut down.

24. In letters dated January 24 and March 18, 2005, Respondent provided documentation to Ohio EPA that it did not employ PRMs at the facility during the alleged periods of violation and that it had timely submitted the required FERs for calendar years 2001 through 2003. Ohio EPA agrees that Respondent did not employ PRMs during that period and that it did timely submit such FERs.

25. Based on the above findings, Ohio EPA finds that Respondent violated the following OAC rules and ORC laws:

- a. ORC § 3704.05(C), for not complying with the applicable requirements of a Title V permit (i.e., late submission of quarterly, semiannual, and annual deviation reports); and
- b. ORC § 3704.05(C) and (J)(2), for failing to comply with BAT-based OC emission limitations.

26. 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 Order:

Within fourteen (14) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of twenty-four thousand and three hundred dollars (\$24,300) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-four thousand and three hundred dollars (\$24,300). The official check shall be submitted to Brenda Case, or her successor, at Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility. A copy of the check shall be sent to James A. Orlemann, Assistant Chief, Compliance and Enforcement, 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. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the check required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's facility.

VIII. 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 the Respondent.

IX. MODIFICATIONS

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

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attention: Julie Budge, Environmental Specialist

and to:

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

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation, or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for the Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and the 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 appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

XIII. EFFECTIVE DATE

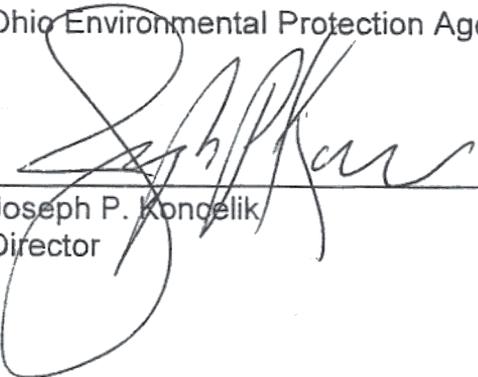
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

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 these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

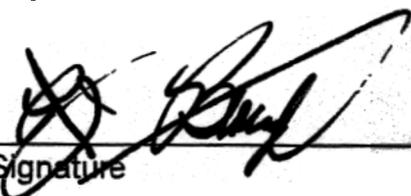


Joseph P. Kondelik
Director

3/29/05
Date

IT IS SO AGREED:

Key Plastics L.L.C



Signature

3/28/05
Date

RICHARD J. BLOUGH
Printed or Typed Name

SR. VICE PRESIDENT