EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2192-AIR-E **TCEQ ID:** RN102539145 **CASE NO.:** 31964

RESPONDENT NAME: Koral Industries, Inc.

ORDER TYPE:		
_X_1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
_X_AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Koral Industries, 1504 South Kaufman Street, Ennis, Ellis County

TYPE OF OPERATION: Bath tub manufacturing plant

SMALL BUSINESS: ____ **Yes** __X__ **No**

OTHER SIGNIFICANT MATTERS: No complaints were received. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 28, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. F.M. Koppersmith III, Executive Vice President, Koral Industries Inc., 1504 S. Kaufman- P.O. Box 1270, Ennis, Texas 75120

Respondent's Attorney: Mr. Howard L. Gilberg, Attorney, Guida, Slavich & Flores, 750 North St. Paul Street, Suite 200, Dallas, Texas 75201

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** July 12, 2006 **Date of NOV/NOE Relating to this Case:** November 31, 2006 (NOE) **Background Facts:** This was a routine record review. One violation was documented. **AIR** Failed to comply with the maximum allowable emission rate for styrene, 15.1 pounds per hour at emission point numbers ("EPN") 4 and 41, and the Federal resin emission rate limit of 87 pounds of styrene per ton of resin used. The actual rates for styrene at EPNs 4 and 41 were 27.3 and 24.7 lbs/hr, respectively, and the resin emission rate was 161 lbs of styrene per ton of resin used [30 TEX ADMIN. CODE §§ 113.1060, 116.115(b)(2)(F), 116.115(c), 40 CODE OF FEDERAL REGULATIONS § 63.5805(b), Permit No. 18756, General Condition 8, Special Condition 3, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $3,850 **Total Deferred:** $770 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $3,080 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that on September 8, 2006, Koral Industries replaced the defective resin guns with new non-atomizing spray guns as a corrective measure at the Plant.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision December 8, 2006*

DATES						
Assigned	4-Dec-2006					
PCW	12-Mar-2007	Screening	11-Dec-2006	EPA Due	27-Aug-2007	

RESPONDENT/FACILITY INFORMATION

Respondent	Koral Industries, Inc.		
Reg. Ent. Ref. No.	RN102539145		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	31964	No. of Violations	1
Docket No.	2006-2192-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Miriam Hall
Multi-Media		EC's Team	EnforcementTeam 5
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History — 2% Enhancement — *Subtotals 2, 3, & 7* **$100**

Notes: Penalty has been enhanced due to one non-similar NOV.

Culpability — No — 0% Enhancement — *Subtotal 4* **$0**

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 25% Reduction — *Subtotal 5* **$1,250**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent came into compliance on Sepember 8, 2006. The NOE was isued on November 30, 2006.

0% Enhancement* — *Subtotal 6* **$0**

Total EB Amounts	$719
Approx. Cost of Compliance	$25,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$3,850**

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount **$3,850**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$3,850**

DEFERRAL — 20% Reduction — *Adjustment* **-$770**

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$3,080**

Screening Date 11-Dec-2006 **Docket No.** 2006-2192-AIR-E **PCW**

Respondent Koral Industries, Inc.

Case ID No. 31964

Reg. Ent. Reference No. RN102539145

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty has been enhanced due to one non-similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date 11-Dec-2006 **Docket No.** 2006-2192-AIR-E **PCW**

Respondent Koral Industries, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 31964 *PCW Revision December 8, 2006*

Reg. Ent. Reference No. RN102539145

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 113.1060, 116.115(b)(2)(F), 116.115(c), 40 Code of Federal Regulations § 63.5805(b), Permit No. 18756, General Condition 8, Special Condition 3, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the maximum allowable emission rate ("MAER") for styrene, 15.1 pounds per hour ("lbs/hr") at emission point numbers ("EPNs") 4 and 41, and the Federal resin emission rate limit of 87 pounds ("lbs") of styrene per ton of resin used. The actual rates for styrene at EPNs 4 and 41 were 27.3 and 24.9 lbs/hr, respectively, and the resin emission rate was 161 lbs of styrene per ton of resin used.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation. From April 11 - September 7, 2006, there were an estimated 4.81 tons of excess styrene.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 2 | 87 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $5,000

Two quarterly events are recommended from the stack test date verifying a violation (April 11, 2006) to compliance date (September 8, 2006).

Economic Benefit (EB) for this violation

Estimated EB Amount $719

Statutory Limit Test

Violation Final Penalty Total $3,850

This violation Final Assessed Penalty (adjusted for limits) $3,850

Economic Benefit Worksheet

Respondent Koral Industries, Inc.
Case ID No. 31964
Reg. Ent. Reference No. RN102539145
Media Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$25,000	11-Apr-2006	8-Sep-2006	0.4	$34	$685	$719
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	The estimated cost for corrective measures from the date the violation was confirmed to the compliance date.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance* $25,000

TOTAL $719

Compliance History

Customer/Respondent/Owner-Operator:	CN600124663	Koral Industries, Inc.	Classification: AVERAGE	Rating: 0.20
Regulated Entity:	RN102539145	KORAL INDUSTRIES	Classification: AVERAGE	Site Rating: 0.20

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD062892187
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32163
	AIR NEW SOURCE PERMITS	PERMIT	18756
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	ED0013W
	AIR NEW SOURCE PERMITS	AFS NUM	0037
	AIR OPERATING PERMITS	ACCOUNT NUMBER	ED0013W
	AIR OPERATING PERMITS	PERMIT	2690
	AIR OPERATING PERMITS	ACCOUNT NUMBER	ED0013W
	AIR OPERATING PERMITS	PERMIT	2690
	STORMWATER	PERMIT	TXR05K032

Location: 1504 S KAUFMAN ST, ENNIS, TX, 75119 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: December 11, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 11, 2001 to December 11, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Miriam Hall Phone: (512) 239-1044

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 12/22/2005 (439198)
2 03/03/2003 (26091)
3 04/12/2006 (459799)
4 04/26/2006 (462686)
5 07/27/2004 (283292)
6 08/20/2002 (8939)
7 11/17/2003 (254922)
8 11/15/2005 (437104)
9 11/09/2004 (339568)
10 11/29/2006 (488130)
11 05/18/2004 (255966)
12 03/18/2002 (100410)
13 08/20/2002 (2250)
14 04/29/2005 (379661)
15 05/30/2006 (467400)
16 08/07/2003 (147536)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/28/2003 (147536)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Description: Annual permit compliance certification was submitted between 30 and 60 days late. It was due on March 24, 2003, but was not submitted until April 21, 2003.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
KORAL INDUSTRIES, INC.	§	
RN102539145	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-2192-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Koral Industries, Inc. ("Koral Industries") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Koral Industries, represented by Howard L. Gilberg of the law firm of Guida, Slavich & Flores, appear before the Commission and together stipulate that:

1. Koral Industries owns and operates a bath tub manufacturing plant at 1504 South Kaufman Street in Ennis, Ellis County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Koral Industries agree that the Commission has jurisdiction to enter this Agreed Order, and that Koral Industries is subject to the Commission's jurisdiction.

4. Koral Industries received notice of the violations alleged in Section II ("Allegations") on or about December 5, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Koral Industries of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Eight Hundred Fifty Dollars ($3,850) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Koral Industries has paid Three Thousand Eighty Dollars ($3,080) of the administrative penalty and Seven Hundred Seventy Dollars ($770) is deferred contingent upon Koral Industries' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Koral Industries fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Koral Industries to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Koral Industries have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that on September 8, 2006, Koral Industries replaced the defective resin guns with new non-atomizing spray guns as a corrective measure at the Plant.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Koral Industries has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Koral Industries is alleged to have failed to comply with the maximum allowable emission rate ("MAER") for styrene, 15.1 pounds per hour ("lbs/hr") at emission point numbers ("EPNs") 4 and 41, and the Federal resin emission rate limit of 87 pounds ("lbs") of styrene per ton of resin used, in violation of 30 TEX. ADMIN. CODE §§ 113.1060, 116.115(b)(2)(F), 116.115(c), 40 CODE OF FEDERAL REGULATIONS § 63.5805(b), Permit No. 18756, General Condition 8, Special Condition 3, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 12, 2006. The actual rates for styrene at EPNs 4 and 41 were 27.3 and 24.7 lbs/hr, respectively, and the resin emission rate was 161 lbs of styrene per ton of resin used.

III. DENIALS

Koral Industries generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Koral Industries pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Koral Industries' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Koral Industries, Inc., Docket No. 2006-2192-AIR-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Koral Industries. Koral Industries is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against Koral Industries in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Koral Industries, or three days after the date on which the Commission mails notice of the Order to Koral Industries, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 7/30/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

_____ 3-16-2007
Signature Date

F. M. KOPPERSMITH III EXECUTIVE VICE PRESIDENT
Name (Printed or typed) Title
Authorized Representative of
Koral Industries, Inc.

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.