

**COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of:  
Kraft Power Corporation

Enforcement Document Number:  
00015233  
Issuing Bureau: BAW  
Issuing Region/Office: NERO  
Issuing Program: MM  
Primary Program Cited: AQ  
Subpgm(s) Cited: HW  
FMF/Program ID # 265251

**ADMINISTRATIVE CONSENT ORDER WITH PENALTY  
AND  
NOTICE OF NONCOMPLIANCE**

I. THE PARTIES

1. The Department of Environmental Protection (“Department” or “MassDEP”) is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7. MassDEP maintains its principal office at 100 Cambridge Street, Boston Massachusetts 02114, and its Northeast Regional Office at 150 Presidential Way, Suite 300, Woburn, Massachusetts 01801.
2. Kraft Power Corporation (“Respondent”) is a Massachusetts corporation with a principal place of business at 199 Wildwood Ave, Woburn, MA 01801 (the “Facility”). Respondent’s mailing address for purposes of this Consent Order is 199 Wildwood Ave, Woburn, MA 01801.

II. STATEMENT OF FACTS AND LAW

3. MassDEP is responsible for the implementation and enforcement of M.G.L. c. 21C and the Hazardous Waste Regulations at 310 CMR 30.000; and c. 111, §§ 142A-142O and the Air Pollution Control Regulations at 310 CMR 6.00, 310 CMR 7.00, and 310 CMR 8.00. MassDEP has authority under M.G.L. c. 21A, § 16 and the Administrative Penalty Regulations at 310 CMR 5.00 to assess civil administrative penalties to persons in noncompliance with the laws and regulations set forth above.
4. Respondent provides electrical power generation equipment and services the equipment to various commercial industries. Respondent is currently registered with MassDEP as a Small

Quantity Generator (SQG) of Hazardous Waste and a Large Quantity Generator (LQG) of waste oil, pursuant to 310 CMR 30.000 *et seq.*

5. The following facts and allegations have led MassDEP to issue this Consent Order:

A. On November 30, 2022, MassDEP personnel conducted an inspection of the Respondent's facility located at 199 Wildwood Ave in Woburn, Massachusetts.

#### HAZARDOUS WASTE MANAGEMENT

B. **Through a review of emergency engine maintenance and service records, MassDEP personnel determined the Respondent transported more than 100 kilograms of waste oil from a customer's site (Lahey Clinic Hospital, Inc.) in January and February 2022 from servicing the engines and does not have a hazardous waste transporter's license**, in violation of 310 CMR 30.402(2). The regulations states...No person, unless exempted by 310 CMR 30.401, shall transport hazardous waste without obtaining and maintain in effect: (2) A valid license from the Department to transport hazardous waste.

C. **Through a review of emergency engine maintenance and service records and discussion with Respondent's personnel, MassDEP personnel determined more than 100 kilograms of waste oil was transported and received by the Respondent in January 2022 and February 2022 from a customer's site (Lahey Clinic Hospital, Inc.) and the Facility does not have a hazardous waste storage license**, in violation of 310 CMR 30.801. The regulation states ...No person shall transport, use, collect, store, treat, or dispose of hazardous waste or construct, operate or maintain any facility for the use, storage, treatment, or disposal of hazardous waste, unless said person has applied for and obtained, and has in effect, a valid license issued by the Department pursuant to M.G.L. c. 21C and 310 CMR 30.000.

D. **Through a review of emergency engine maintenance and service records, MassDEP personnel determined the Respondent did not use a hazardous waste manifest for shipments of waste oil from Lahey Clinic Hospital, Inc. in January and February 2022**, in violation of 310 CMR 30.405(1). The regulation states...A transporter shall not accept hazardous waste from a generator or from another transporter unless the hazardous waste is accompanied by a manifest which is signed by the generator and, if applicable, signed by the other transporter in accordance with the requirements of 310 CMR 30.405(2).

E. **At the time of inspection, MassDEP personnel determined the aboveground waste oil tank was not labeled**, in violation of 310 CMR 30.341(2)(a-d), made applicable by 310 CMR 30.253(6)(a). The regulation states...Each tank or container in which hazardous waste is being accumulated shall be clearly marked and labelled throughout the period of accumulation. Marks and labels shall be clearly visible for inspection. For aboveground tanks and containers, marks and labels shall be made on the side of each tank or container. For underground tanks, marks and labels shall be made on

the aboveground portion of the tanks or on a sign in close proximity to the tank. Each tank or container shall be marked and labeled with the following:

- (a) The words "Hazardous Waste";
- (b) The hazardous waste(s) identified in words (*e.g.*, acetone, toluene);
- (c) The type of hazard(s) associated with the waste(s) indicated in words (*e.g.*, ignitable, toxic, dangerous when wet);
- (d) The date upon which each period of accumulation begins.

F. **At the time of inspection, MassDEP personnel determined the waste oil tank was not clearly delineated**, in violation of 310 CMR 30.341(5), made applicable by 310 CMR 30.253(6)(a). The regulation states...All areas where wastes are accumulated for purposes of complying with 310 CMR 30.000 generally shall be clearly marked (*e.g.*, by clearly visible line or piece of tape on the floor, or by a gate or fence, or by a sign at the boundary of a clearly distinguishable area) so that they are clearly distinguishable at all times from all specific points of generation where wastes are initially accumulated solely for purposes of 310 CMR 30.340(6), and from all areas at the site of generation where wastes are not accumulated.

G. **At the time of inspection, MassDEP personnel observed the waste oil tank was open and not in use**, in violation of 310 CMR 30.695(5), made applicable by 310 CMR 30.253(6)(a), applicable by 310 CMR 30.343(1)(e). The regulation states...A tank holding hazardous waste shall always be closed during storage, except when waste is being added or removed.

H. **At the time of inspection, MassDEP personnel determined the waste oil tank accumulation area did not have an emergency contact list posted or by the closest phone**, in violation of 310 CMR 30.351(9)(c)6., made applicable by 310 CMR 30.253(7)(a). The regulations states... An up-to-date written list containing the following information, a copy of which shall be prominently posted next to every telephone at the site of generation:

- a. The name(s) and telephone number(s) of the emergency coordinator(s).
- b. The location(s) of the fire extinguisher(s) and spill control material(s), and, if present, the fire alarms.
- c. The telephone number of the fire department, and, if there is a direct alarm system, instructions on how to activate it.
- d. Evacuation routes, where applicable.

I. **At the time of inspection, MassDEP personnel determined person(s) responsible for waste oil management did not have adequate training**, in violation of 310 CMR 30.351(9)(g), made applicable by 310 CMR 30.253(7)(a). The regulation states...The generator shall ensure that all employees are properly trained so that they know how to perform their duties so that hazardous waste handling practices and emergency procedures are performed properly and in compliance with all applicable requirements of 310 CMR 30.000.

J. **At the time of inspection, MassDEP personnel requested hazardous waste recycling records for the waste oil burner, and none were available for review, in violation of 310 CMR 30.205(14), made applicable by 30.222(5)(d)4. The regulation states ...Speculative accumulation is prohibited. The permittee shall make and keep records that will adequately demonstrate that no speculative accumulation, as defined in 310 CMR 30.010, has occurred. Such records shall include, but not be limited to, the following:**

- (a) records showing the amount of material being accumulated or stored at the beginning of the calendar year;
- (b) records showing the amount of material received and generated during the calendar year;
- (c) records showing the amount of material being accumulated or stored at the end of the calendar year; and,
- (d) records showing the amount of material that is recycled on-site, and/or that is transferred to a different site for recycling.

### AIR QUALITY

K. **At the time of inspection, MassDEP personnel observed a cold cleaning degreasing unit that was open when parts were not being handled in the degreaser, in violation of 310 CMR 7.18(8)(a)3.d. The regulation states...The covers of each cold cleaning degreaser are closed whenever parts are not being handled in the degreaser, or when the degreaser is not in use.**

6. On April 11, 2023, MassDEP issued a Notice of Enforcement Conference (“NOEC”) to the Respondent setting a date to meet to discuss the violations listed in paragraphs II.5.A. through II.5.K. herein and MassDEP’s requirements for coming into compliance.

7. On April 26, 2023, representatives of the Respondent met with MassDEP personnel virtually to present the Respondent’s response to the Notice of Enforcement Conference.

### III. DISPOSITION AND ORDER

For the reasons set forth above, MassDEP hereby issues, and Respondent hereby consents to, this Order:

8. The parties have agreed to enter into this Consent Order because they agree that it is in their own interests, and in the public interest, to proceed promptly with the actions called for herein rather than to expend additional time and resources litigating the matters set forth above. Respondent enters into this Consent Order without admitting or denying the facts or allegations set forth herein. However, Respondent agrees not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.

9. MassDEP’s authority to issue this Consent Order is conferred by the Statutes and Regulations cited in Part II of this Consent Order.

10. Respondent shall perform the following actions:

HAZARDOUS WASTE MANAGEMENT

B. On May 1, 2023, Respondent submitted written documentation they are not transporting any quantities of hazardous waste or waste oil that would require a License from the Department. Respondent shall continue to comply with 310 CMR 30.402(2).

C. On May 1, 2023, Respondent submitted written documentation they are not accepting hazardous waste or waste oil in quantities that would require a License from the Department. Respondent shall continue to comply with 310 CMR 30.801.

D. On May 1, 2023, Respondent submitted written documentation they are not accepting hazardous waste or waste oil that would require the use of a hazardous waste manifest. Respondent shall comply with 310 CMR 30.405(1) and other hazardous waste transporter regulations referenced in 310 CMR 30.401(1) if Respondent becomes Licensed by the Department in the future.

E. On May 1, 2023, Respondent submitted written documentation the waste oil tank has been properly marked and labeled. Respondent shall continue to comply with 310 CMR 30.341(2)(a-d).

F. On May 1, 2023, Respondent submitted written documentation the waste oil tank has been clearly delineated. Respondent shall continue to comply with 310 CMR 30.341(5)

G. On May 1, 2023, Respondent submitted written documentation the waste oil tank is closed except when adding or removing waste. Respondent shall continue to comply with 310 CMR 30.695(5).

H. Upon the effective date of this Consent Order and thereafter, Respondent shall post an emergency contact list as set forth above. Within thirty (30) days of the effective date of this Consent Order, Respondent shall submit written documentation to MassDEP that this has been done and will continue to be done.

I. Within ninety (90) days of the effective date of this Consent Order, Respondent shall provide waste oil training to employees responsible for waste oil management to ensure their duties are performed in compliance with 310 CMR 30.000. Within one hundred and twenty (120) days of the effective date of this Consent Order, Respondent shall submit written documentation to MassDEP that this has been done and will continue to be done.

J. Within ninety (90) days of the Respondent shall establish and keep recycling records as set forth above. Within one hundred and twenty (120) days of the effective date of this Consent Order, Respondent shall submit written documentation to MassDEP that this has been done and will continue to be done.

AIR QUALITY

K. On May 1, 2023, Respondent submitted written documentation the cold cleaning degreaser cover is closed when parts are not being handled in the degreaser. Respondent shall continue to comply with 310 CMR 7.18(8)(a)3.d.

11. Except as otherwise provided, all notices, submittals and other communications required by this Consent Order shall be directed to:

Scott Fasulo  
Section Chief  
Compliance & Enforcement Section  
Bureau of Air and Waste  
MassDEP – Northeast Regional Office  
150 Presidential Way, Suite 300  
Woburn, MA 01801

Such notices, submittals and other communications shall be considered delivered by Respondent upon receipt by MassDEP.

12. Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondent or any other person of the necessity of complying with all applicable federal, state, and local laws, regulations and approvals.

13. For purposes of M.G.L. c. 21A § 16 and 310 CMR 5.00, this Consent Order shall also serve as a Notice of Noncompliance for Respondent's noncompliance with the requirements cited in Part II above. MassDEP hereby determines, and Respondent hereby agrees, that any deadlines set forth in this Consent Order constitute reasonable periods of time for Respondent to take the actions described.

14. The Commonwealth assesses a civil administrative penalty in the amount of **Fifty-Two Thousand, Eight Hundred and Eighty Dollars (\$52,880.00)** for the violations identified in Part II above, as follows:

A. Within thirty (30) days of the effective date of this Consent Order, Respondent shall pay to the Commonwealth Twenty Thousand Dollars (**\$20,000.00**); and

B. MassDEP hereby agrees to suspend payment of the sum of Thirty Two Thousand, Eight Hundred and Eighty dollars (\$32,880.00); provided, however, that if Respondent violates any provision of this Consent Order, or further violates any of the regulations cited in Part II above, within one year of the effective date of this Consent Order, Respondent shall pay to the Commonwealth the remaining amount of Thirty Two Thousand, Eight Hundred and Eighty dollars (\$32,880.00) within thirty (30) days of the date MassDEP issues Respondent a written demand for payment. This paragraph shall not be construed or operate to bar, diminish, adjudicate, or in any way affect, any legal or

equitable right of MassDEP to assess Respondent additional civil administrative penalties, or to seek any other relief, with respect to any future violation of any provision of this Consent Order or any law or regulation.

15. Respondent understands, and hereby waives, its right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of this Consent Order and to notice of any such rights of review. This waiver does not extend to any other order issued by the MassDEP.

16. This Consent Order may be modified only by written agreement of the parties hereto.

17. The provisions of this Consent Order are severable, and if any provision of this Consent Order or the application thereof is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application, provided however, that MassDEP shall have the discretion to void this Consent Order in the event of any such invalidity.

18. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of MassDEP to issue any additional order or to seek any other relief with respect to the subject matter covered by this Consent Order, or (ii) any legal or equitable right of MassDEP to pursue any other claim, action, suit, cause of action, or demand which MassDEP may have with respect to the subject matter covered by this Consent Order, including, without limitation, any action to enforce this Consent Order in an administrative or judicial proceeding.

19. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of MassDEP or Respondent with respect to any subject matter not covered by this Consent Order.

20. This Consent Order shall be binding upon Respondent and upon Respondent's successors and assigns. Respondent shall not violate this Consent Order and shall not allow or suffer Respondent's directors, officers, employees, agents, contractors or consultants to violate this Consent Order. Until Respondent has fully complied with this Consent Order, Respondent shall provide a copy of this Consent Order to each successor or assignee at such time that any succession or assignment occurs.

21. In addition to the penalty set forth in this Consent Order, if any (including any suspended penalty), if Respondent violates any provision of the Consent Order, Respondent shall pay stipulated civil administrative penalties to the Commonwealth in the amount of **one thousand dollars (\$1,000.00)** per day for each day, or portion thereof, each such violation continues.

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Respondent corrects the violation or completes performance, whichever is applicable. Stipulated civil administrative penalties shall accrue regardless of whether MassDEP has notified Respondent of a violation or act of noncompliance.

All stipulated civil administrative penalties accruing under this Consent Order shall be paid within thirty (30) days of the date MassDEP issues Respondent a written demand for payment. If simultaneous violations occur, separate penalties shall accrue for separate violations of this Consent Order. The payment of stipulated civil administrative penalties shall not alter in any way Respondent's obligation to complete performance as required by this Consent Order. MassDEP reserves its right to elect to pursue alternative remedies and alternative civil and criminal penalties which may be available by reason of Respondent's failure to comply with the requirements of this Consent Order. In the event MassDEP collects alternative civil administrative penalties, Respondent shall not be required to pay stipulated civil administrative penalties pursuant to this Consent Order for the same violations.

Respondent reserves whatever rights it may have to contest MassDEP's determination that Respondent failed to comply with the Consent Order and/or to contest the accuracy of MassDEP's calculation of the amount of the stipulated civil administrative penalty. Upon exhaustion of such rights, if any, Respondent agrees to assent to the entry of a court judgment if such court judgment is necessary to execute a claim for stipulated penalties under this Consent Order.

22. The Respondent shall pay all civil administrative penalties due under this Consent Order, including suspended, or stipulated penalties and/or any associated fees. **The Respondent has four options for payment:**

**Option 1:** certified check;

**Option 2:** cashier's check;

**Option 3:** on-line payment using a credit card;

**Option 4:** electronic transfer.

**Option 1 and 2:**

Certified or cashier's checks must be made payable to the Commonwealth of Massachusetts and received **within 30 days of the effective date of this Consent Order.**

If payment is made by certified check or cashier's check, the Respondent shall clearly print on the face of its payment Respondent's full name, the enforcement document number appearing on the first page of this Consent Order, and Respondent's Federal Employer Identification Number, and shall mail it to:

Commonwealth of Massachusetts  
Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 3982  
Boston, Massachusetts 02241-3982

**(IMPORTANT NOTE: DO NOT INCLUDE THE SIGNED ACOP WITH  
PAYMENT BY CHECK)**

**Option 3:**

On-line Payment Using Credit Card

Your prospective BILL will contain information necessary to pay on-line by credit card.  
When you receive your BILL: LOG ONTO THE MassDEP e-PAYMENT WEB SITE



AT: <HTTPS://WWW.MASSPAYS.COM/dep>. On-line payment using credit card is due **within 30 days of the effective date of this Consent Order. (If a BILL (invoice) is not**

**received within 10 days of the effective date of the consent order, you should** contact The Revenue Department at 781-525-7436 to obtain a copy of your BILL (invoice))

**Option 4:**

Electronic Funds Transfer

Respondent must complete the Administrative Penalty Notification Form found at <https://massgov.formstack.com/forms/apn> to request payment by Electronic Funds Transfer. The form can also be used to correct any information on the invoice, including billing name, address, etc. MassDEP will respond by email with all the information needed to set up the EFT payments.

In the event Respondent fails to pay in full any civil administrative penalty as required by this Consent Order, then pursuant to M.G.L. c. 21A, § 16, Respondent shall be liable to the Commonwealth for up to three (3) times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorneys' fees, including all costs and attorneys' fees incurred in the collection thereof. The rate of interest shall be the rate set forth in M.G.L. c. 231, § 6C.

23. Failure on the part of MassDEP to complain of any action or inaction on the part of Respondent shall not constitute a waiver by MassDEP of any of its rights under this Consent Order. Further, no waiver by MassDEP of any provision of this Consent Order shall be construed as a waiver of any other provision of this Consent Order.
24. To the extent authorized by the current owner, Respondent agrees to provide MassDEP, and MassDEP's employees, representatives and contractors, access at all reasonable times to the Respondent's Woburn Facility for purposes of conducting any activity related to its oversight of this Consent Order. Notwithstanding any provision of this Consent Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.
25. This Consent Order may be executed in one or more counterpart originals, all of which when executed shall constitute a single Consent Order.
26. The undersigned certify that they are fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf they are signing this Consent Order.
27. This Consent Order shall become effective on the date that it is executed by MassDEP.

**SPECIAL INSTRUCTIONS:**

Your two **signed copies of the Administrative Consent Orders with Penalty (ACOP)** must be delivered, for execution (signature) by MassDEP, to the following address:

Scott Fasulo  
Section Chief  
Compliance & Enforcement Section  
Bureau of Air and Waste  
MassDEP – Northeast Regional Office  
150 Presidential Way, Suite 300  
Woburn, MA 01801

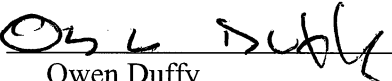
MassDEP will return **one signed copy** of the ACOP to you after MassDEP has signed, provided you have followed the above instructions.

Payment will be due, pursuant to the instructions outlined within the ACOP after you receive your fully executed copy.

**PLEASE DO NOT INCLUDE YOUR PAYMENT WITH THE SIGNED ACOPs SIGNED ACOPS ARE TO BE SENT TO THE ABOVE ADDRESS.**

Please call Helen Howard at (781) 525-7436 if you have questions regarding payment and/or instructions.

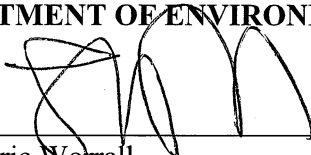
**Consented To:**  
**Kraft Power Corporation**

By:   
Owen Duffy  
President  
199 Wildwood Ave  
Woburn, MA, 01888

Federal Employer Identification No.: 04 238 1327

Date: 5-18-2023

**Issued By:**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By:   
Eric Worrall  
Regional Director  
Northeast Regional Office  
150 Presidential Way  
Woburn, MA 01801

Date: 5/23/23