



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

VALLEY REGIONAL OFFICE

4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801

(540) 574-7800 Fax (540) 574-7878

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Douglas W. Domenech  
Secretary of Natural Resources

David K. Paylor  
Director

Amy Thatcher Owens  
Regional Director

### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO TREX COMPANY, INC.**

### **FOR TREX COMPANY – WINCHESTER MANUFACTURING SITE Registration No. 81164**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Trex Company, Inc., for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations. This Order supersedes and terminates the Consent Order issued by the Board to Trex Company, Inc. on September 18, 2012.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" means the wood/polymer composite lumber manufacturing plant, located at 3229 Shawnee Drive, in Winchester, Virginia, owned by Trex Company, Inc.
5. "Trex" or "Trex Company" means Trex Company, Inc., a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Trex Company, Inc., is a "person" within the meaning of Va. Code § 10.1-1300.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
8. "PCE" means a partial compliance evaluation by DEQ staff.
9. "Permit" means the New Source Review (NSR) permit to operate a wood/polymer composite lumber manufacturing facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Trex Company, Inc., on April 20, 2012, amended February 22, 2013.
10. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Trex owns and operates the Facility in Winchester, Virginia. The Facility is subject to the Permit which allows for the modification and operation of a wood/polymer composite lumber manufacturing plant, including the operation of steam screws, mixers and die faces.
2. On April 24, 2012, DEQ staff observed the stack test performed to measure formaldehyde emissions from the Steam Screw and Mixer/Die Face of Line 214 in Building 4 at the Facility. In a review of the stack test results received on May 31, 2012, DEQ staff observed that the reported formaldehyde emission rate was 0.0879 lb/hr.
3. Condition 55 of the April 2012 Permit limited the Formaldehyde emissions for the

Mixer/Die Face of Lines 210 - 215 in buildings 1 and 4 to 0.057 lbs/hr.

4. On June 13, 2012, based on the April 24, 2012 stack test, the Department issued Notice of Violation No. AVRO8416 to Trex for the violation described in paragraphs C(2) and C(3), above.
5. On September 18, 2012, the Department and Trex entered into a Consent Order to resolve the above violation. All of the Consent Order items were completed in a timely manner. The Facility's NSR permit was amended on February 22, 2013.
6. On July 26, 2013, DEQ staff received a stack test report for testing conducted at the Trex facility on June 12, 2013, and observed that the reported formaldehyde removal percentage was 47.86% and that reported outlet formaldehyde emissions were 0.1761 lb/hr for the testing conducted on the Building 4 scrubber.
7. Permit condition 51 of the facility's Permit states that "The scrubber shall maintain a control efficiency for formaldehyde of no less than 90.0 percent to be demonstrated by stack test..."
8. Permit condition 56 of the facility's Permit states that (Formaldehyde) "Emissions from the operation of the mixer/die faces combined shall not exceed...0.12 lb/hr..."
9. On August 8, 2013, DEQ issued NOV number AVRO8753 to Trex for the violations described in paragraphs C(6) through C(8), above.
10. On August 29, 2013, DEQ staff met with Trex staff. During the meeting, Trex proposed changing their scrubber solution from sodium hydroxide to sodium bisulfite or potassium sulfite.
11. On October 22, 2013, Trex performed emissions testing using potassium sulfite as scrubber solution. Test results for formaldehyde emissions were all below the permitted hourly limit of 0.12 lbs/hr. However, the average formaldehyde removal efficiency was 88%, which is less than the permitted minimum removal efficiency of 90%.
12. Based on the results of the June 12, 2013 stack test, and the August 29, 2013 meeting, the Board concludes that Trex violated Conditions 51 and 56 of the Permit as described in paragraphs C(6) through C(8) above.
13. In order for Trex to complete its return to compliance, DEQ staff and representatives of Trex have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Trex and Trex agrees to:

1. Perform the actions described in Appendix A of this Order.
2. Pay a civil charge of \$7,096.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Trex shall include its Federal Employer Identification Number (54-1910453) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

Both the Board and Trex understand and agree that this Order supersedes and terminates the Consent Order issued by the Board to Trex on September 18, 2012.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Trex for good cause shown by Trex or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Trex admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Trex consents to venue in the Circuit Court of Frederick County for any civil action taken to enforce the terms of this Order.

5. Trex declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Trex to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Trex shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Trex shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Trex shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Trex intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Trex. Nevertheless, Trex agrees to be bound by any compliance date which precedes the effective date of this Order.

Trex Company, Inc., voluntarily agrees to the issuance of this Order.

Date: 12/19/13 By: Wesley Reid, Site Manager  
Wesley Reid Site Manager  
Trex Company, Inc.

Commonwealth of Virginia  
City/County of Rockingham

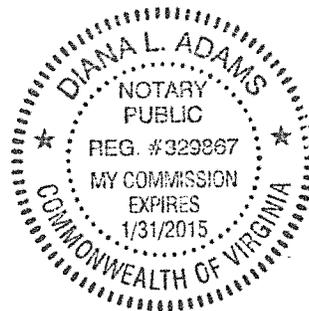
The foregoing document was signed and acknowledged before me this 19<sup>th</sup> day of December, 2013, by Wesley Reid who is Site Manager of Trex Company, Inc., on behalf of the corporation.

Diana Adams  
Notary Public

329867  
Registration No.

My commission expires: 1/31/2015

Notary seal:



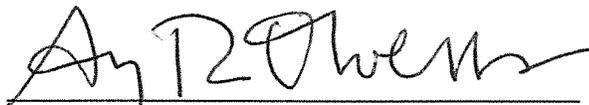
11. This Order shall continue in effect until:

- a. Trex petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Trex.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Trex from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Trex and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Trex certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Trex to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Trex.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Trex voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 19<sup>th</sup> day of December, 2013



Amy Thatcher Owens, Regional Director  
Department of Environmental Quality

## APPENDIX A SCHEDULE OF COMPLIANCE

### Agreed Actions

Accordingly, Trex agrees to:

1. Within 45 days of the execution of this Order, submit to DEQ the information needed to complete the Air Permit Application (Form 7), to reflect the operational processes and associated equipment at the Facility. The Form 7 shall include language detailing operating parameters, production scenarios, Material Safety Data Sheets (MSDSs) and any other information related to air emissions at the Facility.
2. Within 90 days of the execution of this Order, supply sufficient information needed for the Department to evaluate the application and issue a permit if required.

### Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports, without limitation, submitted to DEQ pursuant to this Consent Order, Trex, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

### DEQ Contact

Unless otherwise specified in this Order, Trex shall submit all requirements of Appendix A of this Order to:

**Karen Hensley, P.E.**  
**Enforcement Specialist Sr.**  
**VA DEQ –Valley Regional Office**  
**4411 Early Road**  
**P.O. Box 3000**  
**(540) 574-7821 - phone**  
**(540) 574-7878 - fax**  
**karen.hensley@deq.virginia.gov**