COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
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October 27, 2006

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO ARBORTECH FOREST PRODUCTS, INC REGISTRATION NUMBER 31039

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §1300 *et seq.* and 10.1-1185 between the State Air Pollution Control Board and ArborTech Forest Products, Inc for the purpose of resolving certain violations of the ArborTech Forest Products, Inc Title V Permit dated October 24, 2005.

SECTION B: Definitions

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

1. "Va. Code" means the Code of Virginia (1950), as amended.

2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia described in § 10.1-1301 and § 10.1-1184.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Order.

6. "Facility" or "Source" means ArborTech Forest Products Inc located on 500 Dearing Avenue Place Blackstone, Virginia.

7. "ArborTech" means ArborTech Forest Products Inc located on 500 Dearing Avenue Place Blackstone, Virginia.

8. "SCRO" means the South Central Regional Office located in Lynchburg, Virginia.

9. "Regulations" means the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).

SECTION C: Findings of Fact and Conclusions of Law

1. ArborTech Forest Products Inc is a dimensional lumber and by-products manufacturer. The facility operates two wood-waste boilers fired boilers rated at 28.7 MMBtu/hr each, two 54-foot double track dry-kilns, one 86-foot double track dry kiln, and a planer system.

2. The source was permitted to operate a dimensional lumber manufacturing facility under a Title V permit effective October 24, 2005. A significant modification to the Title V permit was issued on August 17, 2006 which deemed 40 CFR 63 Subpart DDDD and 40 CFR 63 Subpart DDDDD inapplicable to the source.

3. ArborTech is classified as a major source of Volatile Organic Compounds (VOC).

4. An on-site inspection was conducted on August 17, 2006 to ensure compliance with the facility Title V permit. Fugitive dust was observed from haul roads, piles of bark, and piles of sawdust. Fugitive emissions were observed from the planer load-out at an estimated 60% opacity. Wood-waste littered the grounds including area around the wood-waste silo, debarker, and planer mill.

5. Condition IX.N of Title V Permit dated October 24, 2005:

   "During the operation of a stationary source or any other building, structure, facility, or installation, no owner or other person shall cause or permit any materials or property to be handled, transported, stored, used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions may include, but are not limited to, the following:

   1. Use, where possible, of water or chemicals for control of dust in the

demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;
2. Application of asphalt, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which may create airborne dust; the paving of roadways and the maintaining of them in a clean condition;
3. Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty material. Adequate containment methods shall be employed during sandblasting or other similar operations;
4. Open equipment for conveying or transporting material likely to create objectionable air pollution when airborne shall be covered or treated in an equally effective manner at all times when in motion; and,
5. The prompt removal of spilled or tracked dirt or other materials from paved streets and of dried sediments resulting from soil erosion."

6. Weekly observations, visible emission evaluations (VEEs), or corrective actions were not provided for every week within the last 12 month period for Boiler 1 or Boiler 2.

7. Condition III.A.2.b of Title V permit dated October 24, 2005:

"Weekly monitoring - At least one time per calendar week an observation of the presence of visible emissions from each wood-waste fired boiler (Ref. B1 and B2) stack (Ref. B1-1 & B2-1) shall be made. The presence of visible emissions shall require the permittee to:

(1) take timely corrective action such that the wood-waste boiler (Ref. B1 & B2) resumes operation with no visible emissions, or,
(2) conduct a visible emission evaluation (VEE) on the wood-waste boiler stack (Ref. B1-1 & B2-1) with visible emissions in accordance with EPA Method 9 (reference 40 CFR 60, Appendix A) for a minimum of six (6) minutes, to assure visible emissions from the boiler are 20 percent opacity or less. If any of the observations exceed 20 percent opacity, the observation period shall continue until a total of sixty (60) minutes of observation have been completed. Timely corrective action shall be taken, if necessary, such that the boiler resumes operation within the 20 percent opacity limit.
(3) If visible emissions inspections conducted during twelve (12) consecutive weeks show no visible emissions for each boiler (Ref. B1 and B2), the permittee may reduce the monitoring frequency for the boiler (Ref. B1 and B2) without visible emissions to once per month. Anytime the monthly visible emissions inspections show visible emissions, or when requested by DEQ, the monitoring frequency shall be increased to once per week.

The permittee shall maintain an observation log for each boiler (Ref. B1 & B2) to demonstrate compliance. The log shall include the date and time of the observations, whether or not there were visible emissions, the results of all VEEs, any necessary corrective action, and the name of the observer. If a wood-waste boiler (Ref. B1 & B2) has not been operated for any period during the week it shall be noted in the corresponding log book."

8. No weekly observations, VEEs, or corrective actions were performed on Kiln 1, Kiln 2, or Kiln 3 within the last 12 month period.

9. Condition IV.A.2 of Title V permit dated October 24, 2005 states:

   "Weekly monitoring - At least one time per calendar week an observation of the presence of visible emissions from the exhaust vents of each of the three kilns (K1, K2, and K3) shall be made. The presence of visible emissions shall require the permittee to:

   a. take timely corrective action such that the kiln (Ref. K1, K2, and K3), with visible emissions, resumes operation with no visible emissions, or,
   b. conduct a visible emission evaluation (VEE) on the kiln (Ref. K1, K2, and K3), with visible emissions, in accordance with EPA Method 9 (reference 40 CFR 60, Appendix A) for a minimum of six (6) minutes, to assure visible emissions from the kiln are 20 percent opacity or less. If any of the observations exceed 20 percent opacity, the observation period shall continue until a total of sixty (60) minutes of observation have been completed. Timely corrective action shall be taken, if necessary, such that the kiln resumes operation within the 20 percent opacity limit.
   c. If visible emissions inspections conducted during twelve (12) consecutive weeks show no visible emissions for an individual kiln (Ref. K1, K2, and K3), the permittee may reduce the monitoring frequency for that kiln to once per month. Anytime the monthly visible emissions inspections show visible emissions, or when requested by DEQ, the monitoring frequency shall be increased to once per week.

   The permittee shall maintain a kiln visible emissions observation log for each kiln (K1, K2, and K3) to demonstrate compliance. The log shall include the date and time of the observations, whether or not there were visible emissions, the results of all VEEs, any necessary corrective action, and the name of the observer. If an individual kiln has not been operated for any period during the week, it shall be noted in the log book."

10. Seventeen six minute VEEs were performed on the planer cyclone with an opacity reading above the permitted limit of 5%. A full 60-minute evaluation was not performed and no corrective actions were reported

11. Condition IV.B.2.b of Title V permit dated October 24, 2005 states:

> "Weekly monitoring - At least one time per calendar week an observation of the presence of visible emissions from the planer system cyclone stack (Ref. P1-1) shall be made. The presence of visible emissions shall require the permittee to:
>
> (1) take timely corrective action such that the planer system cyclone stack (Ref. P1-1) resumes operation with no visible emissions, or,
>
> (2) conduct a visible emission evaluation (VEE) on the planer system cyclone stack (Ref. P1-1) in accordance with EPA Method 9 (reference 40 CFR 60, Appendix A) for a minimum of six (6) minutes, to assure visible emissions from the planer system cyclone stack are 5 percent opacity or less. If any of the observations exceed 5 percent opacity, the observation period shall continue until a total of sixty (60) minutes of observation have been completed. Timely corrective action shall be taken, if necessary, such that the planer system cyclone stack resumes operation within the 5 percent opacity limit.
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> (3) If visible emissions inspections conducted during twelve (12) consecutive weeks show no visible emissions for planer system cyclone stack (Ref. P1-1), the permittee may reduce the monitoring frequency for the planer system cyclone stack to once per month. Anytime the monthly visible emissions inspections show visible emissions, or when requested by DEQ, the monitoring frequency shall be increased to once per week.
>
> The permittee shall maintain a visible emissions observation log for planer system cyclone stack (Ref. P1-1) to demonstrate compliance. The log shall include the date and time of the observations, whether or not there were visible emissions, the results of all VEEs, any necessary corrective action, and the name of the observer. If the planer system has not been operated for any period during the week it shall be noted in the log book."

12. No documentation of internal inspections on either the planer cyclone or boiler multicyclones were provided at time of inspection.

13. Condition III.A.2 of the Title V permit dated October 24, 2005 states:

> "Annual monitoring – An annual internal inspection shall be conducted on each multicyclone (Ref. B1A and B2A) by the permittee to insure structural integrity."

14. Condition IV.B.2.a of Title V permit dated October 24, 2005 states:

    "Annual monitoring – An annual internal inspection shall be conducted on the cyclone (Ref. P1A) by the permittee to insure structural integrity."

15. ArborTech was issued a Notice of Alleged Violation – ASCRO5099 (NOAV) on August 28, 2006 addressing the observations stated in this section.

16. An enforcement meeting to discuss the issues addressed by the Notice of Alleged Violation was held on September 26, 2006 at SCRO. Representing ArborTech were John Talley and Doug Bensinger. The DEQ officials present were Craig Nicol and Blake Apo. The source agreed to submit a response including a compliance schedule of corrective actions to resolve the deficiencies listed within the NOAV.

17. Arbortech submitted a response including a compliance schedule which was received via fax on October 11, 2006. A signed copy was received on October 16, 2006. The response including a compliance schedule is attached as Appendix A.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307 (D), 10.1-1309, 10.1-1184, and 10.1-1316 (C), orders ArborTech and ArborTech agrees that:

1. ArborTech shall pay a civil charge of $5,200.00 for the violations described in Section C of this order.

2. ArborTech shall make a payment of $5,200.00 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 payable to the "Treasurer of Virginia," delivered to:

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

3. ArborTech shall include its registration number (31039) given by the DEQ with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order.

4. ArborTech shall implement corrective actions to reduce fugitive emissions from the bark pile operation by February 28, 2007. A report evaluating the effectiveness of the implementation shall be submitted to the DEQ no later than April 5, 2007.

5. ArborTech shall implement corrective actions to reduce fugitive emissions from the shavings load-out area by March 30, 2007. A report evaluating the effectiveness of the implementation shall be submitted to the DEQ no later than June 15, 2007.

6. ArborTech shall implement corrective actions to minimize fugitive dust from haul roads and dust accumulation on public roads. A report evaluating the effectiveness of the corrective actions shall be submitted to the DEQ no later than July 15, 2007.

7. ArborTech shall implement a method which ensures that daily observations on-site are performed and any significant sawdust, bark, or shavings spilled are cleaned-up within a reasonable time frame by December 15, 2006. A report evaluating the effectiveness of the implementation shall be submitted to the DEQ no later than January 15, 2007.

8. ArborTech shall perform weekly monitoring as stated in Condition IV.A.2 of the facility Title V permit dated August 17, 2006 and as discussed during the September 26, 2006 enforcement meeting.

9. ArborTech shall perform and have accessible, at all times, annual internal inspections of the planar cyclone and mulitcyclones of Boiler 1 and Boiler 2.

10. ArborTech shall submit documentation of the last internal inspection of the multicyclones of Boiler 1 and Boiler 2 by December 22, 2006. If the previous internal inspections were not performed within the last 12 month period, the source shall conduct an internal inspection of the multicyclones and submit documentation on or before December 22, 2006.

11. ArborTech shall perform an internal inspection on the planar cyclone and submit the results to DEQ on or before December 22, 2006.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this agreement with the consent of ArborTech for good cause shown by ArborTech on its own motion after notice and an opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Alleged Violation issued to ArborTech by DEQ on August 28, 2006. 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

as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, ArborTech admits the jurisdictional allegations, factual findings and conclusions of law contained herein.

4. ArborTech consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this order.

5. ArborTech declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2 4000 *et seq.*, and the State 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 enforce this Order.

6. ~~ArborTech~~ ArborTech's failure 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. ArborTech 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, war, strike, or such other occurrence. ArborTech shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. ArborTech shall notify the DEQ Regional Director in writing 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 within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of 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 ArborTech. Notwithstanding the foregoing, ArborTech agrees to be bound by any compliance date which precedes the effective date of the Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to ArborTech. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve ArborTech from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, ArborTech voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 4th December, 2006.

for Thomas L Henderson, Regional Director
Department of Environmental Quality

ArborTech voluntarily agrees to the issuance of this Order.

By: John Talley

Date: 11-29-06

Commonwealth of Virginia City/County of Nottoway

The foregoing instrument was acknowledged before me this 29th day of November, 2006 by John Talley, (name)

who is President of ArborTech Forest Products, Inc.

Notary Public

My commission expires 10/31/2011.