



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY Blue Ridge Regional Office

www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

Lynchburg Office
7705 Timberlake Road
Lynchburg, Virginia 24502
(434) 582-5120
Fax (434) 582-5125

David K. Paylor
Director

Steven A. Dietrich
Regional Director

Roanoke Office
3019 Peters Creek Road
Roanoke, Virginia 24019
(540) 562-6700
Fax (540) 562-6725

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
CONSENT ORDER
ISSUED TO
ERATH VENEER CORPORATION OF VIRGINIA
FOR THE
ROCKY MOUNT, VIRGINIA MANUFACTURING FACILITY
REGISTRATION NO. 30392**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1309 and 10.1-1316, between the State Air Pollution Control Board and Erath Veneer Corporation of Virginia for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the Regulations for the Control and Abatement of Air Pollution.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning 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 as described in Va. Code §§ 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 § 1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Erath Veneer" means Erath Veneer Corporation of Virginia, a Virginia corporation certified to do business in Virginia in 1952, and the owner of the manufacturing facility

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located in Rocky Mount, Virginia. Erath Veneer is assigned Federal Identification Number 54-055-2542.

7. "Facility" means the manufacturing facility owned by Erath and located in Franklin County, Virginia, which is permitted to operate under DEQ registration number 30392.
8. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
9. "Regulations" mean the Virginia Regulations for the Control and Abatement of Air Pollution, located in the Virginia Administrative Code ("VAC") 9 VAC 5-10-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Erath Veneer Corporation of Virginia owns and operates the manufacturing facility located in Rocky Mount, Virginia. The Facility operates under registration number 30392. Erath's December 31, 1986 Permit To Construct And Operate authorizes the Facility to operate a Keeler 31.5 MMBtu/hr wood-fired boiler.
2. 9 VAC 5-40-80 states in part, "Unless specified otherwise in this part, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any visible emissions which exhibit greater than 20% opacity, except for one six minute period in any one hour of not more than 60% opacity".
3. On June 4, 2008, Department staff arrived at the Facility at approximately 12:45 pm and observed what appeared to be excess visible emissions from the Keeler wood-fired boiler stack. Department staff conducted a Visible Emission Evaluation ("VEE") for thirty minutes in accordance with EPA Method 9. The visible emissions observed ranged from 20% to 100% opacity. The results of the VEE indicated that the Facility had exceeded the 20% opacity limit as specified in 9 VAC 5-40-80 for three six-minute periods: The following are the three highest six-minute average VEEs observed: 23.8%, 43.1% and 32.5% opacity.
4. After conducting the VEEs, Department staff met with representatives of Erath Veneer, including the boiler operator, to discuss the excess emissions. The boiler operator stated that excessive wood fuel feed to the boiler had caused the excess emissions and that the wood fuel feed rate had been reduced.
5. On June 18, 2008, a Notice of Violation was issued to the Erath Veneer Corporation of Virginia for apparent violation of 9 VAC 5-40-80 as listed in part in Paragraph 2 of this section.

SECTION D: Agreement and Order

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Accordingly, the Board by virtue of the authority granted it in Va. Code §§ 10.1-1309 and 10.1-1316, orders Erath Veneer, and Erath Veneer voluntarily agrees, to pay a civil charge of Five Thousand Seven Hundred Seventy-Five Dollars (\$5,775) within 30 days of the effective date of the Order in settlement of the violation cited in this Order. Payment shall be made by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia," delivered to:

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

The payment shall include Erath Veneer's Federal Identification Numbers (FIN) and shall state either on a transmittal letter or as a notation on the check or money order that the payment is submitted pursuant to this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Erath Veener for good cause shown by Erath Veener, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Erath Veener by DEQ on June 18, 2008. 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, Erath Veener admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Erath Veener 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. Erath Veener declares that it has received fair and due process under the Administrative Process Act, Code §§ 9-6.14:11 *et seq.* and the Air Pollution Control Law and it waives

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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, or to judicial review of, any action taken by the Board or the Director to enforce this Order.

6. Failure by Erath Veneer 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 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. Erath Veneer 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, or other act of God, war, strike, or other such occurrences. Erath Veneer must show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Erath Veneer 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 this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of 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 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.

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10. This Order shall become effective upon execution by both the Director or his designee and Erath Veneer. Notwithstanding the foregoing, Erath Veneer agrees to be bound by any compliance date that precedes the effective date of this 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 Erath Veneer. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Erath Veneer 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, Erath Veneer voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 3rd day of APRIL, 2009.

Steven A. Dietrich

Steven A. Dietrich, Regional Director
Blue Ridge Regional Office
Department of Environmental Quality

Erath Veneer Corporation of Virginia voluntarily agrees to the issuance of this Order.

By: Bradley A. Jeffries
Mr. Bradley A. Jeffries, Vice President - Operations

Commonwealth of Virginia
City/County of Franklin

The foregoing document was signed and acknowledged before me this 31st day
of March, 2009, by Mr. Bradley A. Jeffries, Vice President - Operations, on behalf
of Erath Veneer Corporation of Virginia.

Sharon L. McGhee
Notary Public

My commission expires: October 31, 2011

