



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE

Douglas W. Domenech
Secretary of Natural Resources

13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821
www.deq.virginia.gov

David K. Paylor
Director

Thomas A. Faha
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO GAUGE WORKS, LLC

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the State Water Control Board and Gauge Works, LLC, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

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

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Blasocut" means a water miscible mineral oil based metalworking fluid comprised of 40 – 70% severely hydrotreated mineral oil.
3. "Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.
7. "Gauge Works" means Gauge Works, LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Gauge Works is a "person" within the meaning of Va. Code § 62.1-44.3.
8. "Location" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred. The facility is located at 43671 Trade Center Place, in Sterling, Virginia.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. See Va. Code §62.1-44.34:14.
11. "Operator" means any person who owns, operates, charters, rents or otherwise exercises control over or responsibility for a facility or a vehicle or vessel.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
13. "Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.
14. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
15. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses discharge of oil into waters.
16. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
17. "Va. Code" means the Code of Virginia (1950), as amended.
18. "VAC" means the Virginia Administrative Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Gauge Works is a metal fabrication facility that provides engineering design and manufacturing services to its customers. These manufacturing services include, but are not limited to metal finishing and thermoforming.
2. NRO received notification on March 31, 2012, from the Loudoun County Fire Department of a discharge of oil, in the form of Blasocut, from the Gauge Works facility. The notification indicated that up to 40 gallons of oil had been discharged from the rear service bay door across an asphalt lot and into a storm water drop inlet and into a storm water management pond creating a film or sheen upon or discoloration of the surface of the water.
3. DEQ staff visited the location, and observed that approximately $\frac{1}{4}$ to $\frac{1}{2}$ of the storm water management pond, a state water, onsite was discolored milky white. DEQ staff also noted that the asphalt lot area outside of the rear bay doors at the Location had a white hue which continued to the storm drain drop inlet.
4. Loudoun County Fire Department personnel informed DEQ that they had observed Gauge Works employees dumping liquid from buckets from the bay door area. Both the Loudoun County Fire Department and the onsite Gauge Works manager indicated to DEQ that the oil had been intentionally discharged in this manner for approximately four years as part of a pattern of chronic behavior. Gauge Works indicated to DEQ that what was poured out from the rear service bay door at the facility was dirty water that was used to clean off equipment that had come into contact with the Blasocut.
5. While onsite, the Loudoun County Fire Marshall issued a containment and cleanup order to Gauge Works. GEC Environmental Contracting Corporation (GEC) was hired for containment and cleanup of the discharge.
6. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water.
7. On May 8, 2012, the Department issued Notice of Violation No. 2012-05-N-101 to Gauge Works for the intentional discharge of oil to the land and state waters.
8. DEQ met with Gauge Works on June 6, 2012, to discuss the aforementioned violation. No fish kill resulted from the discharge, samples from the outfall of the storm water conveyance pipe and storm water management pond showed no discharge of toxic metals, and there were no visual observations of adverse impact.
9. Based on the results of the March 31, 2012 inspection, and the documentation received by Loudoun County, the State Water Control Board concludes that Gauge Works has violated Va. Code § 62.1-44.34:18, which prohibits the discharge of oil into or upon state

waters, lands, or storm drain systems, as described in paragraphs C(2) through C(5) above.

10. In order for Gauge Works to return to compliance, DEQ staff and representatives of Gauge Works 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 § 62.1-44.34:20, the Board orders Gauge Works, and Gauge Works agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$1,148.00 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

Gauge Works shall include its Federal Employer Identification Number (FEIN) 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 Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Gauge Works shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Gauge Works for good cause shown by Gauge Works, 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, Gauge Works admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Gauge Works 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. Gauge Works declares it has received fair and due process under the Administrative Process Act and the State Water 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 Gauge Works 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. Gauge Works 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Gauge Works shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Gauge Works 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 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 and any 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 Gauge Works. Nevertheless, Gauge Works agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Gauge Works has completed all of the requirements of the Order;
 - b. Gauge Works 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
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Gauge Works.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Gauge Works 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 Gauge Works 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 Gauge Works 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 Gauge Works to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Gauge Works.
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, Gauge Works voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 14th day of March, 2012.



Thomas A. Faha, Regional Director
Department of Environmental Quality

----- (Remainder of Page Intentionally Blank) -----

Gauge Works, LLC voluntarily agrees to the issuance of this Order.

Date: 11/14/2012 By: [Signature], owner
(Person) (Title)
Gauge Works, LLC

Commonwealth of Virginia
City/County of Loudoun

The foregoing document was signed and acknowledged before me this 14 day of November, 2012, by Greg Day who is The owner of Gauge Works, LLC on behalf of the company.

[Signature]
Notary Public

7106575
Registration No.

My commission expires: May 31, 2015

Notary seal:



**APPENDIX A
SCHEDULE OF COMPLIANCE**

Gauge Works, LLC shall:

1. Provide documentation to DEQ by December 1, 2012, to show that the Blasocut is being properly disposed.
2. **Contact**
Unless otherwise specified in this Order, Gauge Works shall submit all requirements of Appendix A of this Order to:

**DEQ Northern Regional Office
Attention Enforcement
13901 Crown Court
Woodbridge, VA 22193**