



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHWEST REGIONAL OFFICE

Preston Bryant
Secretary of Natural Resources

Mailing Address: P.O. Box 1688, Abingdon, Virginia 24212-1688
Street Address: 355 Deadmore Street, Abingdon, Virginia 24210
(276) 676-4800 Fax (276) 676-4899
www.deq.virginia.gov

David K. Paylor
Director

Michael D. Overstreet
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Hutchinson Sealing Systems, Inc. Registration No. 11019

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1 - 1301, 1307, 1309, 1316 and 10.1 - 1184, between the State Air Pollution Control Board and Hutchinson Sealing Systems, Inc. for the purpose of resolving certain violations of State Air Pollution Control Board Regulations.

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 collegial body of the Commonwealth of Virginia described in § 10.1-1301 and § 10.1-1184 of the Code.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1-83.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Regional Office" means the Southwest Regional Office of the Department.
6. "Order" means this document, also known as a Consent Order.
7. "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).
8. "Company" means Hutchinson Sealing Systems, Inc., 1110 South Third Street, Wytheville, VA 24382.

SECTION C: Findings of Facts and Conclusions of Law

1. Beginning on February 28, 2006 and continuing through July 12, 2006 an air compliance review was conducted for the 2005 TV Compliance Certification, 2005 Emission Statement and additional records submitted for the rubber compounds, rubber glass-run channels, and rubber sealing strips facility in Wytheville, Virginia. The following describe the staff's factual observations and identify the applicable legal requirements.

a. Permit condition No. 1 of Hutchinson Sealing Systems, Inc.'s construct and operate permit amended November 10, 2004 states in part, "Except as specified in this permit, the permitted facility is to be modified and operated as represented in the permit application letters dated March 1, 2004, February 25, 2000, January 29, 1999, and December 2, 1997, including amendment information received on December 23, 1997, January 5, 1998, January 23, 1998, February 20, 1998, October 20, 1998, June 8, 2004, and September 1, 2004. Any changes in the permit application specifications or any existing facilities which alter the impact of the facility on air quality may require a permit... (9 VAC 5-50-390 and 9 VAC 5-50-1120 A)". TAP pollutants not submitted for evaluation for this permit include: Carbon Tetrachloride, Chloroform, and Chlorobenzene.

b. Permit condition No. 2 (9 VAC 5-50-1180) of Hutchinson Sealing Systems, Inc.'s construct and operate permit amended November 10, 2004 does not list the #2 EPDM rubber mixing line and #4 extrusion lines that have been installed. It is understood that the #2 EPDM rubber mixing line is installed but not operating and the #4 extrusion line is installed and operating.

c. Permit condition No. 7 of Hutchinson Sealing Systems, Inc.'s construct and operate permit amended November 10, 2004 states, "The production of EPDM rubber from the mixing facility shall not exceed 13,750 tons (27,500,000 lbs.) per year, calculated monthly as the sum of each consecutive 12 month period. A change in the type of materials used in the EPDM rubber production may require a permit to modify and operate. (9 VAC 5-50-1180)". 2005 Emission Statement reports demonstrate that the production of EPDM rubber was 17,566 tons and submitted 2006 operational data demonstrate the 12-month production of EPDM rubber was 18,257 tons in May 2006. In total 15 months of throughput violations were documented.

d. Permit condition No. 9 of Hutchinson Sealing Systems, Inc.'s construct and operate permit amended November 10, 2004 states in part, "Pollutant throughput and emissions from the operation of the rubber mixing, extruding, and molding manufacturing facilities shall not exceed the limitations specified below:

PM-10	16.26 lbs/hr	2.09 tons/year
Volatile Organic Compounds	65.37 lbs/hr	25.08 tons/year ...

(9 VAC 5-50-260)"

2005 Emission Statement reports demonstrate the VOC emissions were 41.3213 tons and submitted 2006 operational data demonstrate the VOC emissions reached a maximum of 42.3309 tons in March 2006 (12 month period). In total 15 months of VOC emissions violations were documented.

e. Permit condition No. 22 of Hutchinson Sealing Systems, Inc.'s construct and operate permit amended November 10, 2004 states in part, "Toxic pollutant emissions from the operation of the extrusion, molding, rubber-on-glass, and rubber mixing lines shall not exceed the following limits:

<u>Toxic pollutant</u>	<u>Emissions</u>	
Xylene	16.05 lbs/hr	4.77 tons/year ...

(9 VAC 5-50-300)."

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2005 Emission Statement reports demonstrate the Xylene emissions were 6.71 tons and the submitted 2006 operational data demonstrated that the Xylene emissions reached a maximum of 7.02 tons in March 2006 (12 month period). In total 13 months of Xylene violations were documented.

2. On July 19, 2006, DEQ sent a Notice of Violation Letter (NOV No. 07-05-SWRO-2006) by Certified Mail-Return Receipt Requested, to Hutchinson Sealing Systems, Inc., informing the Company that DEQ had reason to believe that the violations referenced in (1)(a-e) had occurred.
3. A DEQ inspection was performed on 7-25-06 at Hutchinson Sealing Systems, Inc. The following describe the staff's factual observations and identify the applicable legal requirements.
 - a. Permit condition No. 11 of Hutchinson Sealing Systems, Inc.'s construct and operate permit amended November 10, 2004 states in part, "The permittee shall maintain records of emission data and operating parameters as necessary to demonstrate compliance with this permit... Scheduled and unscheduled maintenance, and operator training...(9 VAC 5-50-50)". DEQ inspection on 7-25-06 noted that no maintenance records for the spray booth control systems were available for inspection.
 - b. Permit condition No. 17 of Hutchinson Sealing Systems, Inc.'s construct and operate permit amended November 10, 2004 states in part, "The permittee shall take the following measures in order to minimize the duration and frequency of excess emissions, with respect to air pollution control equipment and process equipment which affect such emissions... Develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance...(9 VAC 5-50-20-E)". DEQ inspection on 7-25-06 noted that no maintenance records for the spray booth control systems were available for inspection.
4. On August 9, 2006, DEQ sent a Notice of Violation Letter (NOV No. 07-05-SWRO-2006) for a permit violation, by Certified Mail-Return Receipt Requested, to Hutchinson Sealing Systems, Inc., informing the Company that DEQ had reason to believe that the violations referenced in (3)(a-b) had occurred.
5. The following regulations may be applicable in part or whole to the above listed permit deficiencies: 9 VAC 5-170-160.A - (Conditions on Approvals) of the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution states in part: "The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits".

9 VAC 5-50-390	Emission Standards - Permits
9 VAC 5-50-1120 A	Permit Procedures - General
9 VAC 5-50-1180	Permit Procedures - Standards and conditions for granting permits
9 VAC 5-50-260	Emission Standards - Standard for stationary sources
9 VAC 5-50-300	Emission Standards - Applicability and designation of affected facility
9 VAC 5-170-160 A	General Administration - Conditions on approvals
9 VAC 5-50-50	Special Provisions - Notification, records and reporting

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9 VAC 5-50-20 E

Special Provisions – Compliance

6. Hutchinson Sealing Systems, Inc. was issued a significant amendment to the permit date June 2, 2000 (as amended November 10, 2004) on July 18, 2006, to modify and operate a rubber mixing, extruding and molding manufacturing operation. This satisfies the violations referenced in 1 and 2 above.

SECTION D: Agreement and Order

1. By virtue of the authority granted it pursuant to Va. Code §§ 10.1 – 1309 and 10.1-1316 and upon consideration of Va. Code § 10.1 – 1186.2, the Board orders Hutchinson Sealing Systems, Inc. and Hutchinson Sealing Systems, Inc. voluntarily agrees, to a civil charge of \$68,151.00 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", delivered to:

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

The payment shall include Hutchinson Sealing Systems, Inc. Federal ID number and shall identify that payment is being made as a result of this Order.

2. Hutchinson Sealing Systems, Inc. agrees to submit a compliance plan describing how the Company will comply with Conditions 11 and 17 of Hutchinson Sealing Systems, Inc. permit to modify and operate issued 7-18-06 regarding maintaining records of scheduled and non-scheduled maintenance.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Hutchinson Sealing Systems, Inc. for good cause shown by the Company, or on its own motion after notice and opportunity to be heard.
2. Nothing herein shall be construed as altering, modifying, or amending any term or condition contained in the Company's Stationary Source Permit to Modify and Operate approved 6-2-00 (as amended 11-10-04) issued 7-18-06.
3. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or 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 Hutchinson Sealing Systems, Inc. as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
4. By entering into this Order, Hutchinson Sealing Systems, Inc. admits jurisdictional allegations, factual findings, or conclusions of law contained herein. For purposes of this Order and subsequent actions with respect to this Order, Hutchinson Sealing Systems, Inc. agrees not to challenge the jurisdictional allegations, factual findings, and conclusions of law contained herein.
5. Hutchinson Sealing Systems, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

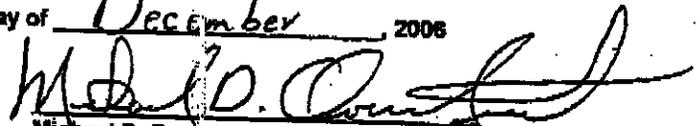
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6. Hutchinson Sealing Systems, Inc. declares it has received fair and due process under the Administrative Process Act, Code §§ 9-6.14:1 et seq., and the State Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to 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 or Director to enforce this Order.
 7. Failure by Hutchinson Sealing Systems, Inc. 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.
 8. 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.
 9. Hutchinson Sealing Systems, Inc. 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 act of God, war, strike, or such other occurrence. Hutchinson Sealing Systems, Inc. must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Hutchinson Sealing Systems, Inc. shall notify the Director, Southwest Regional Office of DEQ within 24 hours with a follow-up in writing within seven days 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 Director, Southwest Regional Office of DEQ within 24 hours of learning of any condition listed above, which the Company intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.
10. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
 11. This Order shall become effective upon execution by both the Director or his designee and Hutchinson Sealing Systems, Inc.. Notwithstanding the foregoing, the Company agrees to be bound by any compliance date, which precedes the effective date of this Order.
 12. This Order shall continue in effect until the Director or the Board terminates the Order in his or its sole discretion upon 30 days written notice to Hutchinson Sealing Systems, Inc.. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Hutchinson Sealing Systems, Inc. from its obligation imposed in this Order, shall not operate to relieve Hutchinson Sealing Systems, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

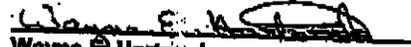
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13. By its signature below, Hutchinson Sealing Systems, Inc. voluntarily agrees to the issuance of this Order.

And it is ORDERED this 5th day of December, 2006


Michael D. Overstreet, Regional Director
Department of Environmental Quality

Hutchinson Sealing Systems, Inc. voluntarily agrees to the issuance of this Order.


Wayne E. Hartsock
Plant Manager
Hutchinson Sealing Systems, Inc.

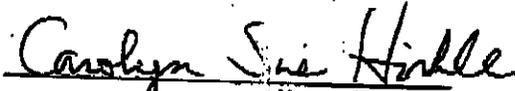
Date: 12-21-06

State of Tennessee

County of Hawkins

The foregoing document was signed and acknowledged before me this 1st day of December, 2006 by Wayne E. Hartsock on behalf of Hutchinson Sealing Systems, Inc.

Date: 12-1-2006


Carolyn Sue Hinkle
Notary Public

My commission expires: 9-1-2010

