



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Preston Bryant
Secretary of Natural Resources

David K. Paylor
Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO SHEETZ, INC.

Registration Numbers 51951, 51984, 52012, 52020, and 52035

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 Sheetz, Inc., for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and 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. "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.
2. "Director" means the Director of the Department of Environmental Quality.
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. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code §10.1-1309.
5. "Order" means this document, also known as a Consent Order.
6. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
7. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80..
8. "Sheetz" means Sheetz, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
9. "Sheetz 315" means a combination convenience store and gas station, Registration Number 51951, located at 12341 N. Washington Hwy, in the Town of Ashland, Virginia.
10. "Sheetz 322" means a combination convenience store and gas station, Registration Number 51984, located at 2053 Huguenot Road, Chesterfield, Virginia.
11. "Sheetz 321" means a combination convenience store and gas station, Registration Number 52012, located at 2711 Conduit Road, Colonial Heights, Virginia.
12. "Sheetz 338" means a combination convenience store and gas station, Registration Number 52020, located at 20 South Providence Road, Chesterfield, Virginia.
13. "Sheetz 341" means a combination convenience store and gas station, Registration Number 52035, located at 9409 Amberdale Drive, Chesterfield, Virginia.
14. "Sheetz 386" means a combination convenience store and gas station, Registration Number 52152, located at 231 E. Hundred Road, Chester, Virginia.
15. "Sheetz Facilities" means Sheetz 315, 322, 321, 338, and 341, collectively.
16. "Stage I" means vapor recovery systems at gasoline dispensing facilities, as required under 9 VAC 5-40-5220.E.1.
17. "Stage II" means vapor recovery systems at gasoline dispensing facilities, as required under 9 VAC 5-40-5220.F.1.
18. "VAC" means the Virginia Administrative Code.

19. "Va. Code" means the Code of Virginia (1950), as amended
20. "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. Sheetz owns and operates the Sheetz Facilities, which are combination convenience stores and gasoline service stations. Sheetz 315 is located in Ashland, Sheetz 322, 338, 341, and 386 are all located in Chesterfield, and Sheetz 321 is located in Colonial Heights. The Sheetz Facilities and Sheetz 386 are true minor stationary sources and are subject to Emission Standards for Petroleum Liquid Storage and Transfer Operations under 9 VAC 5-40-5220 *et seq.*, of the Regulations.
2. Department staff conducted inspections on July 15, 2008, and reviewed the DEQ file for the Sheetz Facilities. The following describes the staff's factual observations at all of the Sheetz Facilities:
 - a. Testing was performed on the vapor recovery systems in June 2008 and Sheetz did not notify the Department prior to testing, as required by 9 VAC 5-40-5220.F.6(e);
 - b. DEQ staff observed that equipment that failed the June 2008 testing was not posted with an "Out of Order" sign and the equipment was still in operation without being repaired, which is prohibited by 9 VAC 5-40-5220.F.6(g), 9 VAC 5-40-5220.E.1 and 9 VAC 5-40-5220 F.1 ;
 - c. DEQ staff noted that the equipment that failed the June 2008 testing was not included in the maintenance logs and the test results were not onsite as required by 9 VAC 5-40-5220 F.6(j).
3. The Sheetz Facilities performed testing on the vapor recovery systems in July 2008. Department staff performed a review of the July 2008 test results and has found that the equipment that failed the June 2008 testing passed the July 2008 testing and the vapor recovery systems are now certified to be in compliance with the Regulations.
4. On September 4, 2008, the Department issued Notices of Violation numbers 08-07-PRO-402, 08-07-PRO-403, 08-07-PRO-404, 08-07-PRO-405, and 08-07-PRO-406 to Sheetz 321, 322, 315, 338 and 341, respectively, for the violations described in paragraph 2, above.
5. On October 9, 2008, a meeting was held between Department staff and representatives of Sheetz to discuss the NOV's. The Sheetz representatives explained the actions that they taken to address the issues that were identified in the NOV. Those actions are described as follows:

- a. In October 2008, Sheetz started implementing Stage II training through the use of a computer module. Follow up training is administered on a periodic basis.
 - b. Sheetz has an agreement with the company performing testing to notify the Department by email prior to testing. Sheetz representatives will be copied on the notification. Testing will no longer be performed in the evening.
 - c. If a failure is identified during testing, all attempts will be made to correct the problem and re-test while the testing company is onsite. If repairs can not be made, the affected equipment will be bagged off and secured to prevent further use. The testing company has agreed to notify the manager of the Sheetz facility and Sheetz corporate office documenting the failure in the appropriate maintenance logs.
 - d. Sheetz maintains all documentation required by the Regulations on its corporate server, which is accessible to the Sheetz Facilities. This information is updated weekly. Stage II training certificates, the Facility Registration and Compliance Form, and all Stage II testing records for the last three years are available for immediate viewing.
 - e. Sheetz also implemented a new format for performing and documenting Stage II daily inspections and maintenance. All of the Sheetz Facilities utilize a red spiral binder that contains daily inspections and maintenance logs for each day of the year. The binder also includes a maintenance log used for tracking and recording Stage II repairs.
6. On October 20, 2008, the Department received a letter from Sheetz that documented the above actions that were discussed during the October 9, 2008 meeting.
 7. Based on the results of July 15, 2008 inspections, the Board concludes that Sheetz has violated 9 VAC 5-40-5220.F.6(e), 9 VAC 5-40-5220.F.6(g), 9 VAC 5-40-5220.E.1, 9 VAC 5-40-5220 F.1, and 9 VAC 5-40-5220 F.6(j) as noted above.
 8. All of the violations identified in paragraph C.2 have been resolved.
 9. The Department received notification from a representative of Sheetz that an Arid Technologies Permeator system was installed in the spring of 2008 at Sheetz 386 and that testing was not performed on the vapor recovery system after the installation.
 10. On May 6, 2009, testing was performed on the vapor recovery system at Sheetz 386. Department staff performed a review of the test results and has found that the equipment passed the testing and the vapor recovery system is now certified to be in compliance with the Regulations.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1309 and 10.1-1316(C), orders Sheetz, and Sheetz voluntarily agrees, to pay a civil charge of **\$58,230** 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", and delivered to:

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

Sheetz shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this paragraph.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Sheetz, for good cause shown by Sheetz, 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 Notices of Violation issued to Sheetz by DEQ on September 4, 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 Sheetz 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 only, Sheetz admits to the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact, and conclusions of law in this Order.
4. Sheetz 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. Sheetz 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. Failure by Sheetz 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

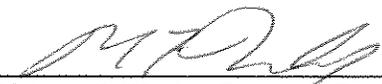
herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

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. Sheetz 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. Sheetz shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Sheetz 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.

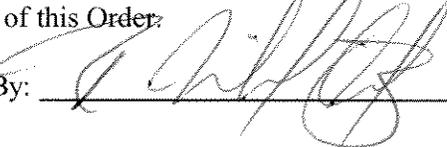
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

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 Sheetz. Notwithstanding the foregoing, Sheetz agrees to be bound by any compliance date, which 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 Sheetz. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Sheetz 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, Sheetz, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 6-24-2009.


Richard F. Weeks, Regional Director
Department of Environmental Quality

Sheetz, Inc. voluntarily agrees to the issuance of this Order:

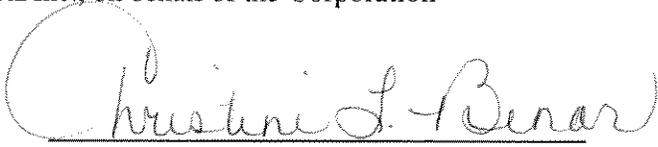
By: 

Date: 6-23-09

Commonwealth of ~~Virginia~~ Pennsylvania
City/County of Blair

The foregoing document was signed and acknowledged before me this 23rd day of June, 2009, by R. Michael Cortez, who is
(name)

Vice President / Gen. Coun. Of Sheetz Inc., on behalf of the Corporation
(title)



My commission expires: _____

COM^{MON}WEALTH OF PENNSYLVANIA
Notary Public
Notarial Seal
Christine L. Bender, Notary Public
City Of Altoona, Blair County
My Commission Expires April 1, 2010
Member, Pennsylvania Association of Notaries