



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

West Central Regional Office

3019 Peters Creek Road, Roanoke, Virginia 24019

Telephone (540) 562-6700, Fax (540) 562-6725

www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Steven A. Dietrich
Regional Director

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
A SPECIAL ORDER BY CONSENT
ISSUED TO
Wolverine Advanced Materials – Cedar Run
Registration No. 21240**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Wolverine Advanced Materials – Cedar Run plant for the purpose of resolving alleged violations of the Title V Permit dated July 1, 2006 and 40 CFR Part 63, Subpart SSSS.

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 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 § 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. “Wolverine” means “Wolverine Advanced Materials – Cedar Run” the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. “Facility” means the Wolverine Advanced Materials – Cedar Run located in Blacksburg, Virginia.
8. “WCRO” means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. “Permit” means the “Stationary Source permit to Install and Operate” which became effective December 16, 1998 and modified on July 1, 2006.
10. “O&M” means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Wolverine owns and operates a facility in Blacksburg, Virginia. The facility is subject to a Title V Operating Permit dated July 1, 2006. In addition, the facility is subject to 40 CFR Part 63 Subpart SSSS, 40 CFR 60 Subpart TT and the Virginia Air Pollution Control Law and Regulations.
2. On August 29, 2006, DEQ, West Central Regional Office, staff conducted a site inspection of the Wolverine facility located at 3175 State Street in Blacksburg, Virginia. This facility is known as the Cedar Run Plant. During the inspection observations were made to determine the facility’s compliance with the Title V permit and 40 CFR Part 63, Subpart SSSS. The following deficiencies were noted during this inspection:
3. The facility failed to provide the 3-hour average gas temperatures immediately before the catalyst bed on the catalytic oxidizers for coating line #5 and #6A, and the 3-hour average combustion temperature on the incinerator on coating line #6B, as required by 40 CFR Part 63, Subpart SSSS.
4. It was noted during the inspection that a circular chart labeled “INC” and dated “6/19/06” for “CL # 6” indicated the line was operating. However, the circular chart also indicated that the combustion temperature was not being maintained at the permitted temperature of 1390°F. In a follow up conversation on September 18, 2006, a facility representative informed DEQ staff that according to production records, Coating Line #6 was operating during that time and coating with VOC containing materials. The facility failed to meet condition IV.A.3 of the July 1, 2006 Title V Permit.

5. DEQ cannot determine if the emission limits in the permit for Coating Line #6 have been, or were achieved during the time (item 4) the incinerator was not operating within the permitted guidelines. The facility failed to meet condition IV.A.9 of the July 1, 2006 Title V Permit.
6. It was noted during the inspection that a few five gallon buckets with VOC containing materials were not properly closed. The facility failed to meet condition VII.A.1 of the July 1, 2006 Permit.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1309 and 10.1-1316, orders Wolverine and Wolverine agrees, to comply with the terms and conditions set forth in **Appendices A and B** of this order and to pay a civil charge of **\$48,750.00** in settlement of the violations cited in this Order.

1. **\$12,189.00** of this civil charge shall be paid within 30 days of the effective date of 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

2. **\$36,561.00** of this civil charge shall be satisfied upon completion by Wolverine of a Supplemental Environmental Project (SEP) as described in Appendices A and B of this order.
3. The Department has the sole discretion to determine whether the SEP has been completed in a satisfactory manner.
4. Should the Department determine that the Supplemental Environmental Project has not been completed in a satisfactory manner, the Department shall notify Wolverine of such in writing. Within 30 days of such notification, Wolverine shall pay the full amount specified in Paragraph 2 above in accordance with the procedures specified in Paragraph 1 above.

SECTION E: Administrative Provisions

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

2. This Order only addresses those conditions specifically identified herein. 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, Wolverine admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Wolverine 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. Wolverine declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 et seq., and the 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 Wolverine 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. Wolverine 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. Wolverine shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Wolverine 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 Wolverine. Notwithstanding the foregoing, Wolverine 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 Wolverine. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Wolverine 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, Wolverine, voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of FEBRUARY 1, 2007.



Steven A. Dietrich, Regional Director
Department of Environmental Quality

Wolverine Advanced Materials voluntarily agrees to the issuance of this Order.

By: 

Richard W. Newark, Director
Wolverine Advanced Materials

Date: JAN 30, 2007

Commonwealth of Virginia

County of Montgomery

The foregoing document was signed and acknowledged before me this 30th day of
January, 2007, by Richard W. Newark, who is
(name)

Dir. of Operations of Wolverine Advanced Materials on behalf of the Corporation.
(title)

Danette A. Poole
Notary Public

My commission expires: 3/31/08.

APPENDIX A

The Virginia State Air Pollution Control Board orders Wolverine Advanced Materials to install energy efficient fluorescent high-bay lighting in replacement of the current metal-halide lighting in building 1 as proposed in the Supplemental Environmental Project Work Plan submitted to the Department on December 12, 2006.

In addition to the foregoing, Wolverine Advanced Materials agrees to the following terms and conditions, which shall be enforceable under this order:

- A. The Supplemental Environmental Project shall be completed by September 1, 2007. Wolverine Advanced Materials shall submit a SEP Completion Report which shall contain the following information:
 1. A detailed description of the project as implemented;
 2. Itemized costs, documented by copies of purchase orders, receipts, invoices or cancelled checks;
 3. Certification that the Supplemental Environmental Project has been fully implemented pursuant to the provisions of this Order.
- B. Wolverine Advanced Materials shall submit all notices and reports required by this Order to Frank H. Adams, Air Compliance Manager, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, Virginia, 24019; by first class mail.
- C. In all documents or reports, submitted to DEQ pursuant to this Order, Wolverine Advanced Materials shall by its' officers, sign and certify under penalty of law and in conformance with 9 VAC 5-20-230 that the information contained in such document or report is true, accurate and not misleading by signing the following statement:

“I certify under penalty of law and I have examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.”
- D. In the event that Wolverine Advanced Materials publicizes this Supplemental Environmental Project, Wolverine Advanced Materials shall state in a prominent manner that the project is part of a settlement for an enforcement action with DEQ.

APPENDIX B

SUPPLEMENTAL ENVIRONMENTAL PROJECT ANALYSIS ADDENDUM VA CODE §10.1-1186.2.A

Case Name: Wolverine Advanced Materials

Project Description:

Project - Installation and operation of 177 energy efficient fluorescent high-bay lights in replacement of 177 current metal-halide lighting at the Wolverine Advanced Materials facility located at 210 Industrial Park Road in Blacksburg, VA.

Explain how the project is environmentally beneficial:

The facility has estimated using calculations from the publication "*Emission Factors and Energy Prices for the Cleaner and Greener Environmental Program*" that the SEP project as proposed would reduce air emissions by 213.98 tons/year at the generation plant by installation of this lighting project. The project entails replacement of 177 light fixtures with 177 T8 fluorescent fixtures resulting in a savings of 39.64 KW per hour which in turn results in a reduction of over 213.98 tons/year of pollutants at the generation plant.

Initial Penalty Computation, Cost of SEP/P2 and Final Penalty:

<i>Initial Penalty</i> =	\$48,750.00
<i>Estimated cost of SEP/P2</i> =	\$36,816.00
<i>SEP/P2 Credit</i> =	\$36,561.00
<i>Final Penalty</i> =	\$12,189.00

P2 Project Not Otherwise Required by Law:

This Supplemental Environmental Project is not required by law

Is there reasonable geographic nexus? If YES, explain:

The proposed project will occur at the Wolverine Advanced Materials facility located at 210 Industrial Park Road in Blacksburg, VA, and the environmental benefits will impact the immediately surrounding area.

Check all the qualifying categories that may apply:

- | | |
|--|---|
| <input type="checkbox"/> public health | <input type="checkbox"/> environmental restoration and protection |
| <input type="checkbox"/> environmental compliance promotion | <input checked="" type="checkbox"/> pollution reduction |
| <input type="checkbox"/> emergency planning and preparedness | <input checked="" type="checkbox"/> pollution prevention |

Each of the following factors MUST be considered. Respond to each:

- Net costs (zero out all government loans, grants, tax credits for project). Explain:

No government loans, grants or tax credits will be secured for this project. The exact cost for this project has not been determined. The estimated cost is \$36,816.00 for lighting replacement. Wolverine Advanced Materials will provide records of actual costs to the WCRO upon completion of the project.

- Benefits to the public or the environment. Explain:

The facility has estimated using calculations from the publication "*Emission Factors and Energy Prices for the Cleaner and Greener Environmental Program*" that the SEP project as proposed would reduce air emissions by 213.98 tons/year at the generation plant by installation of this lighting project. The project entails replacement of 177 light fixtures with 177 T8 fluorescent fixtures resulting in a savings of 39.64 KW per hour which in turn results in a reduction of over 213.98 tons/year of pollutants at the generation plant.

- Innovation. Explain:

N/A

- Impact on minority or low income populations. Explain:

N/A

- Multimedia impact. Explain:

N/A

- Pollution prevention. Explain

The facility has estimated using calculations from the publication "*Emission Factors and Energy Prices for the Cleaner and Greener Environmental Program*" that the SEP project as proposed would reduce air emissions by 213.98 tons/year at the generation plant by installation of this lighting project. The project entails replacement of 177 light fixtures with 177 T8 fluorescent fixtures resulting in a savings of 39.64 KW per hour which in turn results in a reduction of over 213.98 tons/year of pollutants at the generation plant.