



# **COMMONWEALTH of VIRGINIA**

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

Michael P. Murphy  
Regional Director

### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO WOOD FUEL DEVELOPERS, LLC Registration Number 52368**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Wood Fuel Developers, LLC, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable Permit and regulations.

#### **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 citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" means the Wood Fuel Developers wood pellet manufacturing facility, located at 721 West Main St., Waverly, Virginia.
5. "FCE" means a full compliance evaluation by DEQ staff.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "Order" means this document, also known as a Consent Order or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
8. "Permit" means a New Source Review (NSR) Permit to construct and operate a wood pellet manufacturing facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Wood Fuel Developers, LLC on June 16, 2011 and amended on October 26, 2011.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
14. "Wood Fuel Developers" means Wood Fuel Developers, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Wood Fuel Developers is a "person" within the meaning of Va. Code § 10.1-1300.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Wood Fuel Developers owns and operates the Facility in Waverly, Virginia. DEQ issued a new minor New Source Review (NSR) Permit, Registration No. 52368, to Wood Fuel Developers on June 16, 2011 for the manufacturing of wood pellets from the processing of wood, wood waste and wood chips. There is the potential to emit gases and particulate matter (PM10/PM2.5) from the manufacture of wood pellets.
2. DEQ issued a minor amendment to the Permit on October 26, 2011, to allow the installation of a different filter to control emissions on unit EP-P-1, dry feed stock blowers 1-2. This Permit supersedes the Permit dated June 16, 2011.

3. On August 26, 2013, Department staff conducted a FCE of the Facility. Based on the FCE, the October 26, 2011 Permit and Facility records, Department staff made the following observations:

- a) Initial performance testing had not been conducted for the following:

EP-FS-1A – Heil Triple Pass Rotary Dryer w/25 million BTU/hr Maxon Equivalent Gas Burner and 28 million BTU/hr McConnell Sanderdust Burner for Face Pre-Dryer (1980);

EP-FS-2 – Guarantee Performance Triple Pass Rotary Dryer w/25 million BTU/hr Maxon or Equivalent Gas Burner.

- b) Visible Emission Evaluations (VEE) had not been conducted for Baghouses BH-201, BH-202, BH-301, and BH-401.
4. Condition No. 40 of the Permit states that initial performance test shall be conducted on each of the dryers to determine compliance with the control efficiency requirements and emission limits contained in the Permit. Concurrent with the stack test and annually from each wood fuel vendor, a grab sample shall be taken from the feed to the dryer burner and higher heating value (HHV), % sulfur shall be determined by analysis. The tests shall be performed and demonstrate compliance within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after start-up of each rotary dryer placed in service for the permitted facility and within 18 months of this permit issuance.
  5. Condition No. 41 of the Permit states that Visible Emission Evaluations (VEE) shall be conducted concurrently with the stack test in Condition No. 40 on each emission point from a baghouse which exhaust to outside a building or total enclosure. The evaluation shall be performed within 60 days after achieving the maximum production rate at which the facility will be operated but in no event late than 180 days after start-up of the permitted facility and upon testing of each rotary dryer.
  6. On September 30, 2013, DEQ issued an NSR Permit to Wood Fuel Developers to address operational changes that superseded the October 26, 2011 Permit.
  7. On December 17, 2013, the Department issued Notice of Violation No. APRO8838, for the violations of the October 26, 2011 Permit as described above.
  8. On February 19, 2014, Department staff met with Wood Fuel Developers representatives to discuss the violations, including the corrective actions the company had taken.
  9. On March 18, and 21, 2014 Wood Fuel Developers conducted the initial performance and VEE tests, and submitted the results to DEQ on May 2, 2014.

10. On May 7, 2014, Department staff met again with Wood Fuel Developers representatives to discuss modification of the September 30, 2013 Permit to address additional operational and equipment changes at the Facility.
11. On May 14, 2014, Wood Fuel Developers submitted the revised flow diagrams for the pellet process, corrected rate capacities for equipment, and submitted the revised emissions calculation workbook that uses the proposed emission factors from stack testing and new proposed maximum processing rates.
12. On October 15, 2014, DEQ issued Wood Fuel Developers a modified Permit which superseded the Permit issued to Wood Fuel Developers on September 30, 2013.
13. Based on the results of the August 26, 2013 FCE, records review, and February 19, 2014 meeting with representatives of the Facility, the Board concludes that Wood Fuel Developers violated Condition Nos. 40 and 41 of the October 26, 2011 Permit, as described in Section C, above.
14. Wood Fuel Developers has completed the corrective actions by applying for a modified Permit, and was issued an NSR Permit on September 30, 2013, that supersedes the Permit; and subsequently, was issued a permit on October 15, 2014, that supersedes the permit dated September 30, 2013. The Facility is currently subject to the October 15, 2014 Permit which addresses operational and equipment changes, and changes in fuel throughput and rated capacities of the equipment at the Facility. Wood Fuel Developers has made the corrective actions that demonstrate the violations described in Section C above, have been addressed.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1309 and -1316, the Board orders Wood Fuel Developers, and Wood Fuel Developers agrees to:

1. Pay a civil charge of **\$5,616** in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
August 1, 2015	\$ 1,404
November 1, 2015	\$ 1,404
February 1, 2016	\$ 1,404
May 1, 2016	\$ 1,404

2. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Wood Fuel Developers. Within 15 days of receipt of such letter, Wood Fuel Developers shall pay the remaining balance of the civil charge. Any acceptance by the Department

of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

3. All payments 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

4. Wood Fuel Developers 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 Environmental Emergency Response Fund (VEERF).

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Wood Fuel Developers, for good cause shown by Wood Fuel Developers, 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, Wood Fuel Developers admits the jurisdictional allegations, the findings of fact, and conclusions of law in this Order.
4. Wood Fuel Developers 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. Wood Fuel Developers declares it has received fair and due process under the Administrative Process Act and Virginia 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 modify, rewrite, amend or enforce this Order.

6. Failure by Wood Fuel Developers 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. Wood Fuel Developers 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. Wood Fuel Developers shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Wood Fuel Developers 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 Wood Fuel Developers. Nevertheless, Wood Fuel Developers 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 Wood Fuel Developers has completed all of the requirements of the Order; or
- b. Wood Fuel Developers 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 Wood Fuel Developers.

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

And it is so ORDERED this 13<sup>th</sup> day of July, 2015.

  
Michael P. Murphy, Regional Director  
Department of Environmental Quality

Wood Fuel Developers, LLC, voluntarily agrees to the issuance of this Order.

Date: 7/6/15 By: [Signature], President  
(Person) (Title)  
Wood Fuel Developers, LLC

State of Virginia

City/County of Chesterfield

The foregoing document was signed and acknowledged before me this 6<sup>th</sup> day of  
July, 2015, by Steven Gordon, who is  
(name)  
President of Wood Fuel Developers, LLC, on behalf of the company.

[Signature]  
Notary Public

204006  
Registration No.

My commission expires: 12-31-2016

Notary seal: