COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Blue Ridge Regional Office

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Robert J. Weld
Regional Director

Lynchburg Office
7705 Timberlake Road
Lynchburg, Virginia 24502
(434) 582-5120
Fax (434) 582-5125

Roanoke Office
3019 Peters Creek Road
Roanoke, Virginia 24019
(540) 562-6700
Fax (540) 562-6725

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO YOKOHAMA TIRE CORPORATION

Registration Number 20123

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 Yokohama Tire Corporation, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and/or 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. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.

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, as described in Va. Code § 10.1-1185.

5. "Facility" means the Yokohama Tire Corporation facility, located at 1500 Indiana Street, Salem Virginia.

6. "Yokohama Tire" means Yokohama Tire Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Yokohama Tire Corporation is a "person" within the meaning of Va. Code § 10.1-1300.

7. "Notice of Violation" or "NOV" means a type of Notice of Violation under Va. Code § 10.1-1309.

8. "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.

9. "PCE" means a partial compliance evaluation by DEQ staff.

10. "Permit" means the State Operating Permit to operate a tire manufacturing plant, which was issued under the Virginia Air Pollution Control Law and the Regulations to Yokohama Tire Corporation on June 1, 2005 and amended on June 14, 2007.

11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.

12. "Va. Code" means the Code of Virginia (1950), as amended.

13. "VAC" means the Virginia Administrative Code.

14. "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. Yokohama Tire owns and operates the Facility in Salem, Virginia. The Facility is a tire manufacturing facility. The Facility is the subject of the Permit which grants authorization to operate a Stationary Source of Air Pollution.

2. On December 20, 2006, Yokohama Tire submitted an application to amend the State Operating permit dated June 1, 2005. The application did not include information regarding Silane or VOC emission estimates from using Silane compounds. In addition, Yokohama Tire requested that the status of the facility be changed from a Title V major facility to a synthetic minor facility. The State Operating Permit was amended on June 14, 2007 and incorporated emission limits below the Title V applicability threshold. Based upon the information included in the application, the Department rescinded the Title V permit issued on July 1, 2003 (amended October 5, 2005) on June 15, 2007.

3. On June 30, 2011, BRRO received documentation submitted by Yokohama Tire including the self-disclosure letters submitted to the Office of Enforcement, Compliance and Environmental Justice, United States Environmental Protection Agency (OECA). The letters and self-disclosure questionnaire were initially submitted to the OECA on March 23, 2011 and June 7, 2011. The Facility stated that in 2004, a new rubber compound containing silica was introduced in the production process. Although Silane contains less than 0.5% ethanol, the reaction between the Silane and the silica produces additional Volatile Organic Compound (as ethanol) emissions. A Form 7 Permit Application was not previously submitted for the process modification.

4. On November 14, 2011, Department staff conducted a PCE of the Facility record for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observations:

a. A permit was not obtained prior to modification of the Facility.
b. The permit application failed to include a complete list of regulated pollutants.

5. 9 VAC 5-80-1120(A) states: No owner or other person shall begin actual construction, reconstruction or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source.

6. 9 VAC 5-80-840(B)(3)(a) states in part: A permit application shall describe all emissions of regulated pollutants emitted from any emissions unit to be covered by the permit.

7. On December 29, 2011, based on the evaluation, documentation and file review, the Department issued Notice of Violation AWCRO No. 8238 to Yokohama Tire for the violations described in paragraphs C(2) through C(6) above.

8. On January 12, 2012, Department staff met with representatives of Yokohama Tire to discuss the violations.

9. Based on the results of the November 14, 2011 evaluation, the January 12, 2012 meeting, and the documentation submitted on December 20, 2006 and June 30, 2011, the Board concludes that Yokohama Tire has violated 9 VAC 5-80-1120(A) and 9 VAC 5-80-840(B)(3)(a) as described in paragraphs C(5) and C(6) above.

SECTION D: Agreement and Order

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

1. Pay Title V Fees of $13,850 within 30 days of the effective date of the Order for avoided Title V Fees, and

2. Pay a civil charge of $35,490.00 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

Yokohama Tire 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 of $35,490.00 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 Yokohama Tire for good cause shown by Yokohama Tire, 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, Yokohama Tire admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Yokohama Tire 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. Yokohama Tire declares it has received fair and due process under the Administrative Process Act and the 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 Yokohama Tire 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. Yokohama Tire 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. Yokohama Tire shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Yokohama Tire 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 Yokohama Tire. Nevertheless, Yokohama Tire Corporation 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 Yokohama Tire has completed all of the requirements of the Order;

b. Yokohama Tire 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 Yokohama Tire.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Yokohama Tire 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 Yokohama Tire 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 Yokohama Tire 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 Yokohama Tire to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Yokohama Tire.

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, Yokohama Tire Corporation voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 9th day of March 2012.

Robert J. Weld, Regional Director
Department of Environmental Quality

Yokohama Tire Corporation voluntarily agrees to the issuance of this Order.

Date: 3/8/2012 By: M. Sakurai

Mitsuo Sakurai
Executive Vice President

Commonwealth of Virginia,
City/County of Roanoke

The foregoing document was signed and acknowledged before me this 8th day of March, 2012, by Mitsuo Sakurai, who is Executive Vice President of Yokohama Tire Corporation on behalf of the Corporation.

Stacy Schofe
Notary Public

7205328
Registration No.

My commission expires: 4/30/12

Notary Seal:

STACY SCHOFE
NOTARY PUBLIC
REG. #7205328
MY COMMISSION EXPIRES 4/30/2012
COMMONWEALTH OF VIRGINIA