



COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

PIEDMONT REGIONAL OFFICE

4949-A Cox Road
Glen Allen, Virginia 23060
(804) 527-5020
Fax (804) 527-5106
www.deq.state.va.us

Robert G. Burnley
Director

Gerard Seeley, Jr.
Piedmont Regional Director

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
J. W. Fergusson and Sons, Incorporated
Registration No. 50224**

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 J. W. Fergusson and Sons, Incorporated, for the purpose of resolving certain alleged violations of environmental laws and regulations and to provide for the payment of civil charges.

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 permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. "Department" 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. "HAPs" means Hazardous Air Pollutants as defined in § 112(b) of the Clean Air Act.
6. "Order" means this document, also known as a Consent Order.
7. "Regulations" mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution 9 VAC 5-10-10 *et seq.*

J. W. Fergusson and Sons, Inc.

Consent Order

Page 2 of 8

8. "J. W. Fergusson" means J. W. Fergusson and Sons, Incorporated certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
9. "Facility" means the J. W. Fergusson and Sons, Incorporated site located at 4107 Castlewood Rd, Richmond, Virginia.
10. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
11. "Permit" means the Federal Operating Permit issued to J. W. Fergusson on May 27, 2003.

SECTION C: Findings of Facts and Conclusions of Law

1. J. W. Fergusson operates a rotogravure printing facility located at 4107 Castlewood Rd, Richmond, Virginia (NAICS Code 323111). This facility is the subject of the Federal Operating Permit issued on May 27, 2003.
2. On March 3, 2004 an air compliance inspection was performed at J. W. Fergusson. As a result of this inspection, the facility was sent a Request for Corrective Action letter dated June 11, 2004 requesting additional information and follow up action on several items including the following request:
 5. *Records that demonstrate compliance with the requirements of condition V.B.6.a.1 of the permit referring to the air flow rate of the solvent recovery system for the last 12 months;*

J. W. Fergusson responded on July 7, August 3, and August 9, 2004 to the June 11, 2004 Request for Corrective Action.
3. A follow up site inspection at J. W. Fergusson was conducted on August 5, 2004. This inspection was conducted to address those items remaining from the March 3, 2004 site inspection. A separate inspection report was written up for this follow-up visit on August 12, 2004.
4. A meeting was held with J. W. Ferguson on September 7, 2004 to address remaining inconsistencies in the Facility's recordkeeping requirements and operating parameter information. As a result of this meeting, the company sent a letter to DEQ dated September 28, 2004 requesting a waiver from 40 CFR 63.825 (c) (2) (iii) requiring the addition of flow meters as part of the compliance demonstration for HAPs reduction efficiency for solvent recovery systems at Printing Facilities. This requirement is contained in condition number V.A.3, of the Federal Operating Permit dated May 27, 2003.
5. In a letter dated December 15, 2004, DEQ denied the request for a waiver from §63.825 (c) (2) (iii) based on the requirement that the reduction efficiency of the Solvent Recovery system must be

J. W. Fergusson and Sons, Inc.

Consent Order

Page 3 of 8

stated in units of mass flow rate.

6. On February 2, 2005, PRO issued a Notice of Violation to Fergusson alleging potential violations of 40 CFR 63.825 (c) (2)(iii) and Condition V.A.3 of the Federal Operating permit dated May 27, 2003.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1316 C, orders J. W. Fergusson, and J. W. Fergusson voluntarily agrees, to pay a civil charge of \$6,367.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be by check, payable to “Treasurer of Virginia”, and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Payment shall include the Federal Tax Identification Number of the facility.

2. J. W. Fergusson shall complete the requirements for installation and testing of the installed flowmeters as outlined in Appendix A.
3. \$2,163.00 of this civil charge shall be satisfied upon completion by J. W. Fergusson of a Supplemental Environmental Project (SEP) pursuant to Virginia Code 10.1-1186.2 and as described in Appendix B of this Order.
4. J. W. Fergusson shall submit a revised permit application consistent with the changes outlined in this order and in Appendix A of this Order within 120 days of the execution of this order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of J. W. Fergusson, for good cause shown by J. W. Fergusson, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those alleged violations specifically identified herein including those matters addressed in the Notice of Violation issued to J. W. Fergusson on February 2, 2005. 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 the facility as may be

J. W. Fergusson and Sons, Inc.

Consent Order

Page 4 of 8

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.

3. For the purposes of this Order and subsequent actions with respect to this Order, J. W. Fergusson admits the jurisdictional allegations but does not admit factual findings and conclusions of law contained herein.
4. J. W. Fergusson 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. J. W. Fergusson declares it has received fair and due process under the Administrative Process Act, 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 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 J. W. Fergusson 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. J. W. Fergusson 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. J. W. Fergusson 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. J. W. Fergusson 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 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 Regional Director within 24 business hours of learning of any condition listed above, which the Parties 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.

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 J. W. Fergusson. Notwithstanding the foregoing, J. W. Fergusson 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 J. W. Fergusson. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve J. W. Fergusson from its obligation to comply with any statute, regulation, permit condition, other order, certificate, standard, or requirement other wise applicable.
12. By its signature below, J. W. Fergusson Incorporated voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of March 24, 2005.


Robert G. Burnley, Director
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by J. W. Fergusson Incorporated.

Date: 3/14/05


~~George Gialomios~~ DONALD G. GEE
President DIRECTOR OF MANUFACTURING

Commonwealth of Virginia

City/County of Henrico

The foregoing instrument was acknowledged before me this 14th day of March

2005, by Donald C. Gee, Director of Manufacturing on behalf of J. W. Fergusson, Incorporated

April 30th 2008
My commission expires:
Date

Kathy L. Ordway
Notary Public

Appendix A.

1. J. W. Fergusson shall install flowmeters on the Solvent Recovery System consistent with the requirements of 40 CFR 63.825 and the Technical Support Document for Title V Printing Facilities dated November 22, 2002.
2. J. W. Fergusson shall perform initial performance testing on the Solvent Recovery system once the flow monitoring devices have been put in place. This testing may be coincident with the audit testing for the existing concentration meters. This testing is to be performed no later than March 31, 2005.

Appendix B
Supplemental Environmental Project

1. The Supplemental Environmental Project to be performed by J. W. Fergusson and Sons, Inc. will be to modify the Renzman parts washer to vent emissions from the washer to the Regenerative Thermal Oxidizer. The modifications will also include venting of floor sweeps emissions to the Regenerative Thermal Oxidizer.
2. J. W. Fergusson shall provide the Department a start-up notification letter for the revised Renzman venting arrangement. This start-up notification letter shall serve as the project completion date. J. W. Fergusson shall also submit an updated application to incorporate the supplemental environmental project into the Federal Operating Permit. This submittal may be included with additional permitting changes but must be submitted within 90 days of the execution of this order.
3. In the event that J. W. Fergusson publicizes the SEP or the results of the SEP, J. W. Fergusson shall state in a prominent manner the project is part of a settlement for an enforcement action.
4. The Department has the sole discretion to determine whether the SEP has been completed in a satisfactory manner.
5. Pursuant to this Order communications regarding this Order and its requirements shall be addressed as follows:

Charles Turner
Department of environmental Quality
Piedmont regional Office
4949-A Cox Road
Glen Allen, VA 23060