

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION  
ORDER BY CONSENT  
ISSUED TO  
Pre Con, Incorporated  
Registration No. 51028**

**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 Pre Con, 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. AVa. Code@ means the Code of Virginia (1950), as amended.
2. ABoard@ 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. ADepartment@ means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code ' 10.1-1183.
4. ADirector@ means the Director of the Department of Environmental Quality.
5. AOrder@ means this document, also known as a Consent Order.
6. ARegulations@ mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution 9 VAC 5-10-10 *et seq.*
7. "Pre Con" means Pre Con, Incorporated certified to do business in Virginia and its affiliates,

partners, subsidiaries, and parents.

8. "Facility" means the Pre Con, Incorporated located at 220 South Perry Street, Petersburg, Virginia.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Permit" means the Virginia Title V Operating Permit issued to Pre Con, Incorporated on June 1, 1999 and subsequently modified on December 31, 2002.

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

1. Pre Con manufactures polyolefin fiber laminates for fabricated body armor and armor panels by applying binder resins to a web of unidirectional industrial fibers located at 220 South Perry Street, Petersburg, Virginia. This facility is the subject of the Virginia Title V Operating permit issued on June 1, 1999 and subsequently modified on December 31, 2002 and expires June 1, 2004.
2. Part III. Section B. Condition 3.of the Permit requires the Facility to submit to the Department at a frequency of no less than every six months, all deviations from permit requirements. The report is required under 9 VAC 5-80-110 F of the Regulations.
3. Part III. Section B. Condition 15 of the Permit requires the Facility to submit to the Department an Annual Compliance Certification within 60 days of the end of each calendar year a certification of compliance with all terms and conditions of the permit including emission limitation standards or work practices. The report is required under 9 VAC 5-80-110 K.5 of the Regulations.
4. In September 2003 a review of Pre Con's reporting requirements indicated that the 2001 and 2002 Annual Compliance Certifications were received beyond the required 60 days of the end of each calendar year. At the same time the Annual Compliance Certification is due a semi-annual deviation report is also due. The semi-annual deviation reports were included with the Annual Compliance Certifications however, covered the entire year not the period July through December. DEQ files indicated the semi-annual deviation reports covering January through June for 2001, 2002 and 2003 have not been received.
5. On August 12, 2003, a Notice of Violation was issued for failure to obtain a permit prior to beginning actual construction of a twin screw extruder.
6. Pre Con was issued a Minor New Source Review permit for the twin screw extruder on August 18 2003.

**SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code ' 10.1-1316 C, orders Pre Con, and Pre Con agrees, to perform the actions described in Appendix A of this Order. In addition the Board orders Pre Con, and Pre Con voluntarily agrees, to pay a civil charge of \$1,700 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.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Pre Con, for good cause shown by Pre Con, 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 Pre Con on August 12, 2003. 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 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, Pre Con admits the jurisdictional allegations but does not admit factual findings and conclusions of law contained herein.
4. Pre Con 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. Pre Con 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 Pre Con 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. Pre Con 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. Pre Con 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. Pre Con 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 Pre Con. Notwithstanding the foregoing, Pre Con 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 Pre Con. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Pre Con from its obligation to comply with any statute, regulation, permit condition, other order, certificate, standard, or requirement otherwise applicable.

12. By its signature below, Pre Con voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2003.

Robert G. Burnley, Director  
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by Pre Con, Incorporated.

Date: \_\_\_\_\_

Eugene F. Voss  
General Manager

State of Virginia

City/County of

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of

2003, by \_\_\_\_\_, \_\_\_\_\_ on behalf of Pre Con,  
Incorporated

Pre Con, Incorporated.

My commission expires:  
Date

Notary Public

Appendix A

Pre Con, Incorporated shall:

1. Provide semi-annual deviation reports for January through June of 2001, 2002 and 2003 within 30 days of the execution of this order as required in Part III. Section B. Condition 3. of the June 1, 1999 and modified on December 31, 2002 Title V Permit.
2. Submit a Title V permit renewal application at least six months prior to the June 1, 2004 expiration date.