



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

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Robert G. Burnley  
Director

Steven A. Dietrich  
Regional Director

### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO VOLVO TRUCKS - North America Inc.**

#### **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 Volvo Trucks - North America Inc., for the purpose of resolving certain alleged violations of State Air Pollution Control Laws and regulations.

#### **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. "Volvo Trucks - North America Inc." or "VTNA" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means the structure at 4881 Cougar Trail Road located in Dublin, Virginia.

8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "Permit" means the Title V Operating permit, which became effective June 1, 2002 and expires May 31, 2007.
10. "O&M" means operations and maintenance.

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

1. VTNA owns and operates a facility in the Dublin, Virginia. This facility is the subject of the Permit.
2. DEQ has noted an apparent violation of the Air Pollution Control Law and Regulations. This apparent violation, noted in a Notice of Violation issued by DEQ June 19, 2003, includes:

On May 20, 2003, DEQ staff conducted a Partial Compliance Evaluation of the facility. During this evaluation, staff observed the following:

- A. The facility was unable to provide copies of the boiler operating procedures or operator training records. The Permit requires that the facility have written operating procedures and that the boiler operators be trained in the procedures.
- B. The facility provided documentation demonstrating that a total of 74.25 hours of unreported bypasses had occurred at the Basecoat/Multi-Tone Spray Booths. The Permit requires that the facility notify DEQ within two weeks of certain bypass event.

The observations above are cited under the following regulations and the applicable Permit Conditions:

Condition IV.A.10.e, of the June 1, 2002 Title V Permit, states that the permittee can bypass either the Zeolite concentrator and Incinerator or the Incinerator for maintenance of the control equipment without cessation of the operations in the Basecoat/Multi-Tone Spray Booths provided that the WCRO is notified within two weeks of the bypass, that this action has occurred, the duration or anticipated duration of the bypass action, and the reason for the action.

3. VTNA and the Department have differing interpretations of Permit conditions relating to when bypasses and malfunctions are to be reported and agreed to resolve them through this consent order. Volvo Truck - North America Inc. has properly recorded and maintained records relating to malfunctions and bypass of

Basecoat/Multi-Tone control systems and has promptly provided DEQ with such records upon request.

4. VTNA has corrected the problems cited in the Notice of Violation. The facility has implemented a procedure that provides both electronic and facsimile notifications of malfunctions, which lead, to a bypass of Basecoat/Multi-Tone control equipment for more than one hour during painting operations to the WCRO.
5. VTNA provided DEQ staff with training records for the operators of the boilers and has purchased copies of the boiler's operating manual.

#### **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, and after consideration of the factors set forth in Va. Code § 10.1-1186.2, orders VTNA, and VTNA agrees, to perform the actions described below and in Appendices A and B of this Order. In addition, the Board orders VTNA, and VTNA voluntarily agrees to pay a civil charge of **\$2,247.00** in settlement of the violations cited in this Order.

1. **\$22.47** 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 10150  
Richmond, Virginia 23240

The payment shall include VTNA's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

2. **\$2224.53** of this civil charge shall be satisfied upon completion by VTNA of a Supplemental Environmental Project (SEP) pursuant to Virginia Code 10.1-1186.2 and as described in Appendix B of this Order.
3. The Department has the sole discretion to:
  - a. authorize any alternate SEP proposed by the Facility; and
  - b. determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.
4. Should the Department determine that the SEP, or alternate SEP, has not been completed in a satisfactory manner, the Department shall notify VTNA of such determination in writing. Within 30 days of such notification, VTNA shall pay

the 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 VTNA, for good cause shown by VTNA, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to VTNA by DEQ on June 19, 2003. 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. By entering into this Order, VTNA neither admits nor denies the factual findings or conclusions of law contained herein. For purposes of this Order and subsequent actions with respect to this Order, VTNA agrees not to challenge the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. VTNA 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. VTNA 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 VTNA 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. VTNA 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. VTNA shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. VTNA 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 VTNA. Notwithstanding the foregoing, VTNA 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 VTNA. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve VTNA 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, VTNA voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day 16 of DECEMBER, 2003.

Steven A. Dietrich for  
Robert G. Burnley, Director  
Department of Environmental Quality

Volvo Trucks - North America Inc. voluntarily agrees to the issuance of this Order.

By: Gilbert PASSIN  
Date: 12/9/03

Commonwealth of Virginia  
City/County of PULASKI

The foregoing document was signed and acknowledged before me this 9<sup>th</sup> day of  
DECEMBER, 2003, by GILBERT PASSIN, who is  
(name)

VICE PRESIDENT AND GENERAL MANAGER of Volvo Trucks - North America Inc., on behalf of the Corporation.  
(title)

Mitzi R. Barnes  
Notary Public

My commission expires: July 31, 2006

## **APPENDIX A**

VTNA shall:

From the effective date of the Order, submit to the DEQ, notifications of malfunctions which lead to a bypass of Basecoat/Multi-Tone control equipment for more than one hour during painting operations. These shall be submitted within the permitted time frame.

## APPENDIX B

### SUPPLEMENTAL ENVIRONMENTAL PROJECT

1. The Pollution Prevention (P2) Project to be performed by VTNA is as follows:  
  
Project 1 - Removal and disposal of eight (8) existing R12-Freon containing refrigerating units and installation of new non-Freon (414B refrigerant) containing refrigerating units.
2. The P2 Project shall be completed by December 17, 2004.
3. VTNA certifies that they have not commenced performance of the P2 project prior to the identification of the violations cited in this Consent Order and the approval of the P2 project by the Department.
4. The net cost of the P2 Project to VTNA shall not be less than \$2,224.53. In the event that the final net cost of the P2 Project is less than this amount, VTNA shall pay the remainder of the amount in accordance with Paragraph D. 3. of this Order to the Commonwealth of Virginia, unless otherwise agreed to by the Department. Net costs shall mean the costs of the project minus any tax savings, grants and first-year operation cost reductions or other efficiencies.
5. VTNA acknowledges that it is solely responsible for completion of the P2 Project project. Any transfer of funds, tasks, or otherwise by VTNA to a third party, shall not relieve VTNA of its responsibility to complete the P2 Project as contained in this Order.
6. VTNA shall provide the Department with written verification of completion or progress reports of the P2 Project by providing a work schedule. The project completion or progress reports verification must be submitted to the Department within thirty (30) days from the effective date of the Order on a quarterly basis, due the 10th day of each quarter.
7. VTNA shall submit written verification to the Department in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation of the final overall and net cost of the P2 Project within thirty (30) days of the project completion date. For the purposes of this submittal, net costs can be either the actual final net costs or the projected net costs if such projected net costs statement is accompanied by a CPA certification or certification from VTNA's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.
8. In the event that VTNA publicizes the P2 Project or the results of the P2 Project, VTNA shall state in a prominent manner that the project is part of a settlement for an enforcement action.

9. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

Robert W. Saunders  
Department of Environmental Quality  
West Central Regional Office  
3019 Peters Creek Road  
Roanoke, VA 24019

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

**Case Name:** *Volvo Trucks North America Inc. – Notice of Violation Number 070703*

**Project Description:**

*Project 1 - Removal and disposal of eight (8) existing R12-Freon containing refrigerating units and installation of new non-Freon (414B refrigerant) containing refrigerating units.*

**Explain how the project is environmentally beneficial:**

*By replacing these Freon based refrigerating units, this project will result in an elimination of possible contamination from accident or emergency situation that could result in the release of Freon material into the environment.*

**Initial Penalty Computation, Cost of SEP and Final Penalty:**

<i>Initial Penalty</i>	=	\$ 2,247.00
<i>Estimated cost of P2</i>	=	\$ 6,200.00
<i>Project 1 (P2) Credit</i>	=	\$ 2,224.53
<i>Final Penalty</i>	=	\$ 22.47

*The estimated cost for this project is between \$700 and \$900 per refrigerating unit upgrade. Records of actual costs will be submitted to the WCRO and credited against the amount of the civil penalty that can be offset with P2 projects.*

**SEP Not Otherwise Required by Law:**

*The existing refrigerating units are in compliance with all applicable state and federal regulations. Therefore, the replacement of refrigerating units is not a requirement of the state or federal law.*

**Is there reasonable geographic nexus? If YES, explain:**

*The proposed projects will occur at the Volvo Trucks North America Inc. facility in Dublin, 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 checked="" type="checkbox"/> environmental restoration and protection |
|--|--|

- environmental compliance promotion       pollution reduction  
 emergency planning and preparedness       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 between \$700 and \$900 per refrigerating unit upgrade. Volvo Trucks North America Inc. will provide records of actual costs to the WCRO upon completion of the project.*

- Benefits to the public or the environment. Explain:

*This project will eliminate the possibility for Freon containing material to be released into the environment. By eliminating the possibility of a release, the surrounding geographic nexus is improved.*

- Innovation. Explain:

N/A

- Impact on minority or low income populations. Explain:

N/A

- Multimedia impact. Explain:

N/A

- Pollution prevention. Explain

*This project will eliminate the possibility of Freon release into the environment.*