

**COMMONWEALTH of VIRGINIA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Blue Ridge Regional Office**

www.deq.virginia.gov

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**STATE AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION – ORDER BY CONSENT  
ISSUED TO  
DELTA STAR, INC.  
Registration Number 30239**

**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 Delta Star, Inc., for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the Permit and applicable 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 Lynchburg, Virginia.
3. "Delta Star" means Delta Star, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Delta Star, Inc. is a "person" within the meaning of Va. Code § 10.1-1300.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" means the Delta Star, Inc. facility, located at 3550 Mayflower Drive in Lynchburg, Virginia.

7. “FCE” means a full compliance evaluation by DEQ staff.
8. “Notice of Violation” or “NOV” means a type of Notice of Violation under Va. Code § 10.1-1309.
9. “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.
10. “PCE” means a partial compliance evaluation by DEQ staff.
11. “Permit” means a State Operating Permit to operate a medium power transformer and industrial products manufacturing facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Delta Star, Inc. on September 25, 2002.
12. “Regulations” or “Regulations for the Control and Abatement of Air Pollution” means 9 VAC 5 Chapters 10 through 80.
13. “September 24, 2010, Order” means the Order, also known as a “Consent Order” or “Order by Consent,” a type of Special Order executed between the State Air Pollution Control Board and Delta Star, Inc. on September 24, 2010.
14. “Va. Code” means the Code of Virginia (1950), as amended.
15. “VAC” means the Virginia Administrative Code.
16. “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. Delta Star owns and operates the Facility in Lynchburg, Virginia. The Facility is the subject of the Permit which allows the Facility to operate a medium power transformer and industrial products manufacturing facility.
2. On June 30, 2010, DEQ staff conducted a FCE of Delta Star. As a result of the violations discovered during that FCE, Delta Star was issued an NOV on July 27, 2010. To resolve the NOV, a Consent Order was executed between the State Air Pollution Control Board and Delta Star, Inc. on September 24, 2010. Appendix A of the September 24, 2010, Order prescribed the actions required for Delta Star to return to compliance.
3. On January 5, 2011, Department staff conducted a PCE of the Facility record for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, the Regulations and the September 24, 2010, Order. Based on the inspection and follow-up information, Department staff made the following observations:
  - a. Delta Star failed to submit complete VOC and HAP emission records and the 2009 Annual Update Report by October 24, 2010, as required by Appendix A of the September 24, 2010, Order.

4. Item 1 of Appendix A of the September 24, 2010, Order states:

“Delta Star, Inc. shall maintain on-site all records required under 9 VAC 5-40-50(F) and the Facility’s September 25, 2002, State Operating Permit. These records shall include, but are not limited to:

- a. Monthly and annual throughput (in gallons) from the coating operation including clean-up. Annual throughput shall be calculated monthly as the sum of each consecutive 12 month period.
- b. Monthly and annual VOC emissions (in pounds) from the coating operation including clean-up. Annual emissions shall be calculated monthly as the sum of each consecutive 12 month period.
- c. Monthly and annual HAP emissions to verify compliance with the individual and total HAP emissions limitations in Condition 6. Annual emissions shall be calculated monthly as the sum of each consecutive 12 month period.
- d. Delta Star, Inc. shall maintain these records on-site, along with a copy of the Facility’s Permit, and shall make these records available for inspection by DEQ upon request.

Within 30 days of the effective date of this Order, Delta Star, Inc. shall submit the records described in paragraphs 1(a) through 1(c), above, for the period of January 2009 to August 2010, and include any measures that Delta Star, Inc. has taken and/or plans to take to ensure that future records are available as required.”

5. Item 2 of Appendix A of the September 24, 2010, Order states:

“Within 30 days of the effective date of this Order, Delta Star, Inc. shall submit the completed 2009 Annual Update Report, and include any measures that Delta Star, Inc. has taken and/or plans to take to ensure that future reports are submitted as required.”

6. On January 20, 2011, based on the inspection and follow-up information, the Department issued Notice of Violation AWCRO No. 7851 to Delta Star for the violations described in paragraphs C(3) through C(5) above.
7. On March 4, 2011, Delta Star submitted a written response to the NOV.
8. On March 8, 2011, Department staff met with representatives of Delta Star to discuss the violations, including Delta Star’s written response.
9. Delta Star submitted the VOC and HAP emission records on January 28, 2011, with corrections submitted on April 15, 2011 and April 29, 2011. The 2009 Annual Update Report was submitted on March 1, 2011, with corrections submitted on April 15, 2011.
10. On May 2, 2011, Department staff conducted a PCE of the final VOC and HAP emission records submitted on April 29, 2011, in response to the September 24, 2010, Order. Based on the inspection and follow-up information, Department staff made the following observations:

- a. VOC and HAP emission records indicated the Facility's plantwide VOC emission limit and the throughput of coating to the transformer primer spray booth limits were both exceeded for thirteen (13), rolling twelve month compliance periods (January 2009 through December 2010).

11. Condition 7 of the Permit states:

"Throughput – The throughput of coating to the transformer primer spray booth shall not exceed 4.8 tons per year, calculated monthly as the sum of each consecutive 12 month period. (9 VAC 5-80-10H)"

12. Condition 8 of the Permit states:

"Plantwide Emission Limits – Total emissions from the coating operation including clean-up shall not exceed the limits specified below:

Volatile Organic Compounds	8.5 tons/yr
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These emissions are derived from the estimated overall emission contribution from operating limits. Exceedance of the operating limits shall be considered credible evidence of the exceedance of emission limits. Compliance with these emission limits may be determined as stated in Condition number 11. (9 VAC 5-80-850)"

13. On May 4, 2011, Department staff met with representatives of Delta Star to discuss the violation of Conditions 7 and 8 of the Permit.
14. Based on the results of the January 5, 2011, PCE, the March 8, 2011, meeting, the documentation submitted on March 4, 2011, the May 2, 2011, PCE, and the May 4, 2011, meeting the Board concludes that Delta Star has violated Items 1 and 2 of Appendix A of the September 24, 2010, Order, and Conditions 7 and 8 of the Permit as described in paragraphs C(3) through C(5) and C(10) through C(12), above.
15. Delta Star has submitted documentation that verifies that the violations described in paragraphs C(3), through C(5), above, have been corrected.
16. In order for Delta Star to complete its return to compliance, Department staff and representatives of Delta Star, Inc. have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

**SECTION D: Agreement and Order**

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

1. Perform the actions described in Appendix A of this Order, and
2. Pay a civil charge of \$76,332 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

Delta Star 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 the Order with the consent of Delta Star, for good cause shown by Delta Star, 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, Delta Star admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law contained in this Order.
4. Delta Star 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. Delta Star 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 Delta Star 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. Delta Star 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. Delta Star shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Delta Star 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 Delta Star intends 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.

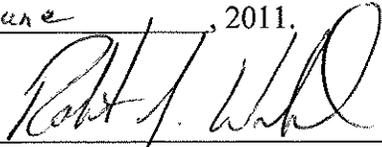
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Delta Star. Nevertheless, Delta Star agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. Delta Star 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
  - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Delta Star.

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

And it is so ORDERED this 2<sup>nd</sup> day of June, 2011.



Robert J. Weld, Regional Director  
Department of Environmental Quality

Delta Star, Inc. voluntarily agrees to the issuance of this Order.

Date: 5/11/20

By: [Signature]  
(Person)

GM, DSE  
(Title)

Commonwealth of Virginia,  
City/County of Lynchburg

The foregoing document was signed and acknowledged before me this 20 day of

May, 2011, by Kendall D Jackson, who is  
(name)

G.m. DSE of Delta Star, Inc. on behalf of the Corporation.  
(title)

Doreen T. Nash  
Notary Public

205378  
Registration No.

My commission expires: March 31, 2012

Notary Seal:

**APPENDIX A**  
**SCHEDULE OF COMPLIANCE**

1. **Request Modification of the Permit:**

Delta Star shall:

- a. Submit a complete Form 7 Air Permit Application within 45 days but no later than within 60 days of the execution date of this Order. The permit application shall request that conditions 7 and 8 of the Permit be modified to reflect current operations at Delta Star.
- b. Provide sufficient information so that the permit application can be deemed complete within 90 days of the execution date of this Order.
- c. Cooperate fully with the Department's requests for information related to the permitting process and provide requested information to Department staff in a timely manner but no later than 14 days after an information request is made.
- d. If Delta Star is unable to provide information as requested in Items b or c above, Delta Star shall submit documentation demonstrating that reasonable progress is being made toward meeting the request within four business days of discovery. This documentation shall include an explanation of the delay(s) and the expected date that the information will be submitted to the Department.
- e. The Order will be terminated upon Delta Star's return to full compliance.
- f. Submit the complete Form 7 Air Permit Application to:

David J. Brown  
Air Permit Manager  
VA DEQ-BRRO Lynchburg  
7705 Timberlake Road  
Lynchburg, VA 24502  
(434) 582-6210  
[David.Brown@deq.virginia.gov](mailto:David.Brown@deq.virginia.gov)

2. **Records**

Delta Star shall maintain on-site all records required under 9 VAC 5-40-50(F) and the Facility's Permit. These records shall include, but are not limited to:

- a. Monthly and annual throughput (in gallons) from the coating operation including clean-up. Annual throughput shall be calculated monthly as the sum of each consecutive 12 month period.
- b. Monthly and annual VOC emissions (in pounds) from the coating operation including clean-up. Annual emissions shall be calculated monthly as the sum of each consecutive 12 month period.

- c. Monthly and annual HAP emissions to verify compliance with the individual and total HAP emissions limitations in Condition 6. Annual emissions shall be calculated monthly as the sum of each consecutive 12 month period.
- d. Delta Star shall maintain these records on-site, along with a copy of the Facility's Permit, and shall make these records available for inspection by DEQ upon request.
- e. Delta Star shall review these records monthly to ensure compliance with the Facility's Permit limits and shall take steps necessary to maintain compliance with the Facility's Permit.

3. **Report Submission**

Delta Star shall take measures to ensure that future Annual Update Reports are submitted to the Department as required.

4. **Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports submitted to DEQ pursuant to this Order, Delta Star shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

5. **DEQ Contact**

Unless otherwise specified in this Order, Delta Star shall submit all requirements of Appendix A of this Order to:

Nicole W. Wright  
Air Compliance Engineer  
VA DEQ-BRRO Lynchburg  
7705 Timberlake Road  
Lynchburg, VA 24502  
(434) 582-6245  
Nicole.Wright@deq.virginia.gov