



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Blue Ridge Regional Office

www.deq.virginia.gov

David K. Paylor
Director

Robert J. Weld
Regional Director

Molly Joseph Ward
Secretary of Natural Resources

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

WOLVERINE ADVANCED MATERIALS, LLC FOR

WOLVERINE ADVANCED MATERIALS, LLC – CEDAR RUN FACILITY Registration No. 21240

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 Wolverine Advanced Materials, LLC, regarding the Wolverine Advanced Materials, LLC – Cedar Run facility, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and 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 Wolverine Advanced Materials, LLC – Cedar Run facility, located at 3175 State Street, Blacksburg, Virginia 24060 in the Blacksburg, Virginia.
6. "HAP" means Hazardous Air Pollutant.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "NSR Permit" means a New Source Review permit to construct and operate a stationary source of air pollution, which was issued under the Virginia Air Pollution Control Law and the Regulations to Wolverine Advanced Materials, LLC on February 16, 2006.
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. "T5 Permit" means a Title V permit to construct and operate a stationary source of air pollution. The Permit was issued under the Virginia Air Pollution Control Law and the Regulations to Wolverine Advanced Materials, LLC on June 25, 2014.
12. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
16. "Wolverine" means Wolverine Advanced Materials, LLC, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Wolverine is a "person" within the meaning of Va. Code § 10.1-1300.

SECTION C: Findings of Fact and Conclusions of Law

1. Wolverine owns and operates the Facility in Blacksburg, Virginia pursuant to its NSR Permit and its T5 Permit.
2. On May 29, 2014, Department staff conducted a PCE of the Catalyst Analysis Report #804483-111826 ("Report") submitted by Wolverine 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. The Report was for catalytic oxidizer (“CL6A”) and indicated that catalyst activity for the samples tested (conversion efficiency) averaged 86.2 percent at 600 degrees F.
 - b. The operating temperature of the catalytic oxidizer (CL6A) is 655 degrees F.
3. Based upon review of the Report, Department staff requested that Wolverine conduct performance testing on the CL6A catalytic oxidizer to confirm that it was meeting the required 98 percent reduction efficiency for volatile organic compound (VOC) emissions. DEQ requested that testing be conducted within 45 days. Wolverine submitted a performance test protocol to the Department on June 20, 2014 and the Department approved the protocol on July 1, 2014.
 4. On July 8, 2014, Wolverine conducted the performance test but did not complete three separate test runs as indicated in the approved performance test protocol.
 5. On July 14, 2013, Department staff conducted a PCE of the Facility record, submitted by Wolverine and received by the Department on July 10, 2014, for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. The Facility record pertained to the July 8, 2014 incomplete performance test conducted on CL6A. Based on the evaluation and follow-up information, Department staff made the following observations:
 - a. Wolverine did not perform the performance test as presented in the approved performance test protocol but instead discontinued the testing after hand logged data indicated that the total hydrocarbon inlet concentrations were in the range of 2900 – 3000 ppm and the total hydrocarbon outlet concentrations were 400 ppm.
 - b. Based on these concentrations, the destruction efficiency of the oxidizer was 85 percent.
 6. Condition 25 (Process Equipment Requirements – CL6- Testing) of the T5 permit, 9 VAC 5-80-110 and Condition 18 of the NSR permit require that the permittee, upon request by the DEQ, shall conduct performance tests for Volatile Organic Compounds from the coating preparation equipment and/or metal coil coating Line #6 to demonstrate compliance with the emission limits and control efficiency requirements contained in this permit. The details of the tests shall be arranged with the Blue Ridge Regional Office.
 7. 9 VAC 5-50-30 states in part that unless specified otherwise in the applicable standard, each performance test for a new or modified source shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard the arithmetic mean of the results of the three runs shall apply.

8. Condition 18 of the T5 permit, 9 VAC 5-80-110, 9 VAC 5-50-260 and Condition 2 of the NSR permit require that the VOC emissions from the metal coil coating line #6A (“CL6A”) shall be controlled by permanent total enclosure and a catalytic oxidizer/incinerator having a 98% destruction efficiency.
9. 40 CFR 63.5120(a)(1) states in part that each coil coating affected source must limit organic HAP emissions to the level specified in paragraph (a)(1), (2), or (3) of this section: (1) No more than 2 percent of the organic HAP applied for each month during each 12-month compliance period (98 percent reduction).
10. On July 22, 2014, based on the May 29, 2014 and July 14, 2014 evaluations, the Department issued NOV No. AWCRO #8984 to Wolverine for the violations described in paragraphs C(4) through C(9), above.
11. On July 25, 2014, Wolverine staff contacted the Department, as requested in the NOV and scheduled a meeting.
12. On August 8, 2014, Department staff met with representatives of Wolverine to discuss the NOV and actions planned by Wolverine to address the areas of non-compliance.
13. On August 19, 2014, Wolverine had the catalyst beads replaced in the catalytic oxidizer. In addition, cracks and few pin holes were sealed on the oxidizer.
14. On October 2, 2014, Wolverine conducted a performance test on the CL6A and demonstrated compliance with the requirements of the T5 Permit.
15. Based on the results of May 29, 2014 and July 14, 2014 evaluations, the Board concludes that Wolverine has violated 9 VAC 5-50-30, permit conditions No. 25 and No. 18 of the June 25, 2014 T5 Permit, and 40 CFR 63.5120(a)(1) , as described in paragraphs C(4) through C(9), above.
16. Wolverine has submitted documentation that verifies and DEQ staff have reviewed the documentation and verified that the violations described in paragraphs C(4) and C(9), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Wolverine, and Wolverine agrees to pay a civil charge of **\$29,250** 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

Wolverine shall include its Federal Employer Identification Number (FEIN) (20-4605777) 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, Wolverine shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Wolverine for good cause shown by Wolverine, 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, Wolverine admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Wolverine 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. Wolverine 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 Wolverine 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. Wolverine 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. Wolverine shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Wolverine 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 Wolverine. Nevertheless, Wolverine 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 Wolverine has completed all of the requirements of the Order;
 - b. Wolverine 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 Wolverine.

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

And it is so ORDERED this 28th day of January, 2015.



Robert J. Weld, Regional Director
Department of Environmental Quality

Wolverine Advanced Materials, LLC voluntarily agrees to the issuance of this Order.

Date: 1/26/15 By: [Signature]
Tim Frazier
Plant Manager
Wolverine Advanced Materials, LLC

Commonwealth of Virginia
City/County of Blackburg

The foregoing document was signed and acknowledged before me this 26th day of January, 2015, by Tim Frazier who is Plant Manager of Wolverine Advanced Materials, LLC - Cedar Run Facility, on behalf of the corporation.

[Signature]
Notary Public
7500094
Registration No.

My commission expires: 10/31/2015

Notary seal:

