

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Blue Ridge Regional Office

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

Lynchburg Office
7705 Timberlake Road
Lynchburg, Virginia 24502
(434) 582-5120
Fax (434) 582-5125

David K. Paylor
Director

Robert J. Weld
Regional Director

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
Main Plant - Registration No. 20763
AND
Cedar Run Plant - 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, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits 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-R" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
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" or "Plant" means the Wolverine Main Plant, Registration No. 20763 and/or the Wolverine Cedar Run Plant, Registration No. 21240.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Order" means this document, also known as an "Order by Consent" or "Consent Order", a type of Special Order under the Virginia Air Pollution Control Law.
9. "PCE" means a Partial Compliance Evaluation performed by DEQ staff.
10. "Permits" means the Title V Air Permits ("TV"), Registration No. 20763 (Main Plant), and Registration No. 21240 (Cedar Run Plant), which were issued under the Virginia Air Pollution Control Law and Regulations to Wolverine Advanced Materials, LLC on January 17, 2006 and June 25, 2014, respectively.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Wolverine" means Wolverine Advanced Materials, LLC, a limited liability company 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.
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.

SECTION C: Findings of Fact and Conclusions of Law

1. Wolverine Advanced Materials, LLC ("Wolverine") operates two metal coil coating facilities in the Town of Blacksburg, Virginia. The Main Plant is located at 201 Industrial Park Road, and the Cedar Run Plant is located at 3175 State Street.
2. The Department issued a Title V Air Permit ("Permit") to Wolverine on January 17, 2006 for the Main Plant, under Registration No. 20763, and on June 25, 2014 for the Cedar Run Plant, under Registration No. 21240; both of which allow operation and emissions in strict accordance with their terms.

3. The Permits contain the following monitoring and reporting requirements to allow the Department to determine the Facility's compliance with the emission limits enumerated in the Permits:
 - a. Condition VIII. C.3. of the Title V Permit Registration No. 20763 (Main Plant) requires the submission of Semi-Annual Monitoring Reports no later than March 1 and September 1 of each calendar year.
 - b. Condition III. E.3. of the Title V Permit Registration No. 20763 (Main Plant) requires the submission of MACT SSSS Semi-Annual Monitoring Reports for the reporting periods of January 1-June 30 and July 1-December 31, to be postmarked no later than 60 days from the end of the reporting period.
 - c. Condition 50 of the Title V Permit Registration No. 21240 (Cedar Run Plant) requires the submission of MACT SSSS Semi-Annual Monitoring Reports for the reporting periods of January 1-June 30 and July 1-December 31 to be postmarked no later than 60 days from the end of the reporting period.
 - d. Condition 66 of Title V Permit Registration No. 21240 (Cedar Run Plant) requires the submission of Semi-Annual Monitoring Reports no later than March 1 and September 1 of each calendar year.
4. On October 1, 2015 Department staff conducted a file review of the Main and Cedar Run Facilities records. The file review revealed that the Department had not received the Title V Semi-Annual Monitoring Report nor the MACT SSSS Semi-Annual Report for either Facility by the September 1, 2015 due date specified by the Permits.
5. On October 13, 2015 Department staff documented the receipt of the required reports submitted by both Facilities in a Partial Compliance Evaluation ("PCE") and documented that the reports were received 42 days later than the submission deadline specified in the Permit.
6. The Department issued Notice of Violations ("NOV") numbers ABBRO 000279 and ABBRO 000280 to Wolverine on October 26, 2015 to address the violations. The Department received a response to the NOVs from Wolverine staff on November 5, 2015 via email.
7. 9 VAC 5-80-110 (F) states, *inter alia*, the permit shall contain terms and conditions setting out all applicable reporting requirements and require submittal of reports of any required monitoring at least every six months.
8. 40 CFR 63 Subpart SSSS contains National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
9. 9 VAC 5-170-160 states, *inter alia*, The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air

Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits.

10. Virginia Code § 10.1-1322(A) states, *inter alia*, Permits may be issued, amended, revoked or terminated and reissued by the Department and may be enforced under the provisions of this chapter in the same manner as regulations and orders. Failure to comply with any condition of a permit shall be considered a violation of this chapter and investigations and enforcement actions may be pursued in the same manner as is done with regulations and orders of the Board under the provisions of this chapter.
11. On December 1, 2015 Wolverine representatives met with DEQ enforcement staff in the Department's Blue Ridge Regional Office ("BRRO") located in Roanoke, Virginia to discuss the violations. The Department was informed during the meeting that the monitoring events had been conducted as scheduled but the reports were not submitted due to an oversight.
12. Based on the results of the PCEs conducted by Department staff, the documentation submitted by Wolverine, and the meetings with Wolverine representatives, the Board concludes that Wolverine Advanced Materials, LLC has violated, 9 VAC 5-80-110 (F), and 40 CFR 63 MACT, Subpart SSSS, as described, above.

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 \$20,996.00 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) [(xx-xxxxxxx)] 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, and agrees not to contest, but neither admits nor denies the findings of fact, and conclusions of law in this Order.
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 that they have received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and they waive 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 their control and not due to a lack of good faith or diligence

on their 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 Wolverine 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 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 Advanced Materials, LLC.
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.

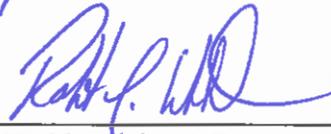
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Wolverine from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

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

And it is so ORDERED this 19th day of July, 2016.



Robert J. Weld, Regional Director
Department of Environmental Quality

(Remainder of this page intentionally blank)

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

Date: 6/23/16 By: , Plant Manager
Frank Constantine Plant Manager
Wolverine Advanced Materials, LLC

Commonwealth of Virginia

City/County of Montgomery

The foregoing document was signed and acknowledged before me this 23 day of June, 2016, by Katrina Hawks who is _____ of Wolverine Advanced Materials, LLC, on behalf of Wolverine Advanced Materials, LLC.


Notary Public

7673743
Registration No.

My commission expires: June 30, 2020

Notary seal: 

(Remainder of this page intentionally blank)