



COMMONWEALTH of VIRGINIA

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Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY
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David K. Paylor
Director

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Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
BANKER STEEL CO., LLC
FOR
South Plant - Registration No. 30916**

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 Banker Steel Co., 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. "Banker" means Banker Steel Co., LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Banker is a "person" within the meaning of Va. Code § 10.1-1300.
2. "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.
3. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Facility" or "Plant" means the Banker Steel South Plant, Registration No. 30916, located at 351 Rangoon Street, Lynchburg, Virginia 24504.
8. "FCE" means a Full Compliance Evaluation performed by DEQ staff.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
10. "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.
11. "Permit" means the State Operating Permit ("SOP"), Registration No. 30916 (South Plant), which was issued under the Virginia Air Pollution Control Law and Regulations to Banker Steel, LLC on October 9, 2013.
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.

SECTION C: Findings of Fact and Conclusions of Law

1. Banker Steel Co., LLC ("Banker"), of Lynchburg, Virginia owns and operates two manufacturing facilities; the Main Plant is located at 1619 Wythe Road, and a satellite facility at 351 Rangoon Street in Campbell County, designated as the South Plant ("Facility").
2. The Facility is a miscellaneous metal parts and product coating facility which utilizes two shop coat spray bays (PB1 and PB2), with each rated at 3.4 gallons per minute, and one structural steel de-scaling machine (Blastec model OH9321).
3. The Department issued the Permit to Banker; which allows operations and emissions in strict accordance with its terms.
4. On August 21, 2017, Department staff conducted an unannounced Full Compliance Evaluation ("FCE") for the Facility to determine compliance with the Permit. The FCE revealed that throughput and emission records were not up to date for 2017 and available for

inspection. Records of a maintenance schedule, equipment maintenance and training were not available for the spray bays and descaling machine for calendar year 2017 as well. Maintenance issues were noted related to filters, duct work and a spray bay manometer.

5. On August 22, 2017, Banker notified Department staff via email of corrective action that had been implemented to address the maintenance issues noted during the August 21, 2017 FCE.
6. On August 30, 2017, Banker provided the Department with throughput and emission records as required by the Permit.
7. The Permit contains the following operation and reporting requirements to allow the Department to determine the Facility's compliance with the emission limits enumerated in the Permit:
 - a. Condition 13 of the State Operating Permit issued on October 9, 2013 requires the owner of a new or modified source subject to the provisions of this chapter shall provide notifications and reports, maintain records or report performance test or monitoring results in a manner and form and using procedures acceptable to the board.
 - b. Condition 18 of State Operating Permit issued October 9, 2013 requires that at all times, including periods of startup, shutdown, soot blowing and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions.
8. 9 VAC 5-50-20 (E.) states, at all times, including periods of startup, shutdown, soot blowing and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the board, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
9. 9 VAC 5-50-50 states, *inter alia*, the owner of a new or modified source subject to the provisions of this chapter shall provide notifications and reports, maintain records or report performance test or monitoring results in a manner and form and using procedures acceptable to the board.
10. 9 VAC 5-80-850 states, *inter alia*, requirements for proper operation and maintenance of any pollution control equipment, and appropriate spare parts inventory.
11. VAC 5-80-900 states, *inter alia*, the board may require owners of stationary sources subject to this article to establish and maintain records, provide notifications and reports, revise reports, report emission tests or monitoring results in a manner and form and using procedures as the board may prescribe. Any records, notifications, reports, or tests required under this section shall be retained by the owner for at least three years following the date of such records, notifications, reports or tests.

12. The Department issued Notice of Violation ("NOV") number ABRR0000698 to Banker on September 12, 2017, to address the violations. The Department received a response to the NOV's from Banker staff on September 18, 2017, via email.
13. Representatives from Banker met with Department enforcement and compliance staff in the Department's Blue Ridge Regional Office on October 6, 2017, to discuss the violations and the corrective action required to return to compliance. During the meeting, Banker representatives provided the Department with additional documents, including equipment maintenance records and training records.
14. On October 23, 2017, Banker submitted a letter to the Department summarizing the records that were presented on October 6, 2017, and outlining Banker's position in response to the NOV.
15. Based on the results of the FCE conducted by Department staff, the documentation submitted by Banker, and the meeting with Banker representatives, the Board concludes that Banker Steel Co., LLC has violated, Conditions 13 and 18 of the State Operating Permit, 9 VAC 5-50-20 (E.), 9 VAC 5-50-50, 9 VAC 5-80-850, 9 VAC 5-80-900, as described, above.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316 and upon consideration of Va. Code § 10.1-1186.2, the Board orders Banker Steel Co., LLC, and Banker Steel Co., LLC agrees to:

Pay a civil charge of \$7,962.50 within 30 days of the effective date of this 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," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Banker Steel Co., LLC 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 this Order with the consent of Banker for good cause shown by Banker, 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, Banker 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. Banker 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. Banker 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 Banker 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. Banker 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. Banker shall demonstrate that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. Banker 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 Banker 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 Banker Steel Co., LLC.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Banker has completed all of the requirements of the Order;
 - b. Banker 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 Banker.

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

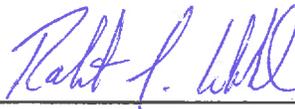
12. Any plans, reports, schedules or specifications attached hereto or submitted by Banker and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Banker 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 Banker to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Banker.

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, Banker Steel Co., LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 8th day of February, 2018.



Robert J. Weld, Regional Director
Department of Environmental Quality

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Banker Steel Co., LLC voluntarily agrees to the issuance of this Order.

Date: 2/2/18 By: Nate McGovern, VP Contracts & Legal Affairs
Nate McGovern VP, Contracts & Legal Affairs

Commonwealth of Virginia

City/County of Lynchburg

The foregoing document was signed and acknowledged before me this 2nd day of February, 2018, by Nate McGovern who is VP Contracts & Legal Affairs of Banker Steel Co., LLC, on behalf of Banker Steel Co., LLC.

Sue E. Bush
Notary Public

7111734
Registration No.

My commission expires: Nov 30 2019

Notary seal:



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