



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

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Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO CHAPARRAL (VIRGINIA) INC. Registration No. 51264

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 Chaparral (Virginia) Inc., 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. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Chaparral" means Chaparral (Virginia) Inc., a corporation authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Chaparral 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 Chaparral (Virginia) Inc.'s Petersburg Plant, a scrap steel recycling facility located at 25801 Hofheimer Way, Petersburg, Virginia. The Facility primarily produces recycled steel.
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 a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "PCE" means a partial compliance evaluation by DEQ staff.
10. "Permit" means the Title V Operating permit to operate a steel recycling and production plant, which was issued under the Virginia Air Pollution Control Law and the Regulations to Chaparral on April 4, 2014 and renewed on October 2, 2019.
11. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
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. Chaparral owns and operates the Facility. Recycled steel is one of the principal products made at the Facility.
2. The Facility is the subject of the Permit, which allow the operation of the Facility.
3. Chaparral submitted its Permit renewal application on September 27, 2018. In the application, the backup diesel pump for the non-contact cooling tower, identified in the Permit as emission unit number ES25, was listed as being used for emergency purposes only.
4. On September 12, 2019, DEQ staff prepared a PCE documenting their review of the Facility's Semi-Annual Monitoring Report for the first half of 2019 and submitted by Chaparral. DEQ staff noted the following factual observations:
 - a. Condition 67 – The backup diesel pump for the non-contact cooling tower, ES25, operated a total of 716 hours before the oil and oil filter were changed on July 1, 2019.

- b. Between March 8, 2019 and April 15, 2019 the backup diesel driven pump for the non-contact cooling tower, ES25, operated a total of 716 hours. DEQ staff have not received an application which includes ES25 for permitting evaluation as a non-emergency unit.
5. Condition 67 of the Permit states, ‘Fuel Burning Equipment Requirements - (ES22-ES25, ES33) - Limitations - 40 CFR 63 Subpart ZZZZ - The permittee shall, a[t]s a minimum, change the oil and oil filter every 500 hours of operation or annually, whichever comes first, for each engine (ES22-ES25, ES35). ...’
6. New Source Review Permit exemptions are listed in the Virginia Administrative Code at 9 VAC 5-80-1105.B.2 which states: “Engines and turbines that are used for emergency purposes only and that do not individually exceed 500 hours of operation per year at a single stationary source as follows. All engines and turbines in a single application must also meet the following criteria to be exempt:
 - a. Gasoline engines with an aggregate rated brake (output) horsepower of less than 910 hp and gasoline engines powering electrical generators having an aggregate rated electrical power output of less than 611 kilowatts.
 - b. Diesel engines with an aggregate rated brake (output) horsepower of less than 1,675 hp and diesel engines powering electrical generators having an aggregate rated electrical power output of less than 1125 kilowatts.
 - c. Combustion gas turbines with an aggregate of less than 10,000,000 Btu per hour heat input (low heating value).”
7. 9VAC5-80-1120 paragraph A states, “No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of that permit.”
8. On December 10, 2019, DEQ issued NOV No. APRO001369-001 to Chaparral for the violations described in paragraphs C.3. through C.7.
9. On January 22, 2019, DEQ met with representatives of Chaparral to discuss the violations noted in the compliance evaluations and NOV and any corrective actions they have implemented or plan to implement. During that meeting, Chaparral submitted training documentation they prepared to better evaluate any future events similar to this one and agreed to submit a permit application.
10. Va. Code §10.1-1322 states that failure to meet conditions of a permit is considered a violation of the Virginia Air Pollution Control Law.
11. 9 VAC 5-80-260 and 9 VAC 5-80-1210(I) require compliance with all terms and conditions of Title V operating permits and permits for stationary sources respectively.

12. Based on the results of the above mentioned inspections, meetings and submitted documentation, the Board concludes that Chaparral has violated conditions 67 of the Permit, Va. Code § 10.1-1322, 9VAC5-80-1120, 9 VAC 5-80-260 and -1210 of the Virginia Air Pollution Control Law and Regulations as described above.
13. In order for Chaparral to return to compliance, DEQ staff and representatives of Chaparral 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 Chaparral, and Chaparral agrees, to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$19,656.00 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

Chaparral 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, Chaparral 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 Chaparral for good cause shown by Chaparral, 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 those violations specifically identified in Section C of this Order and the December 10, 2019 NOV. 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, Chaparral admits to the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact, and conclusions of law in this Order.
4. Chaparral 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. Chaparral 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 Chaparral 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. Chaparral does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
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. Chaparral 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. Chaparral shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Chaparral 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 Chaparral. Nevertheless, Chaparral 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 Chaparral has completed all of the requirements of the Order;
 - b. Chaparral 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 Chaparral.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Chaparral 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 Chaparral 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 Chaparral certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Chaparral to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Chaparral.
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, Chaparral voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 16 day of March, 2020.

James J. Golden
James J. Golden, Regional Director
Department of Environmental Quality

Chaparral (Virginia) Inc. voluntarily agrees to the issuance of this Order.

Date: March 16, 2020 By: James A. Christina, VPGM
(Person) (Title)
Chaparral (Virginia) Inc.

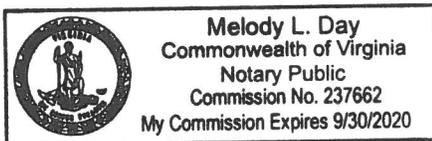
Commonwealth of Virginia

City/County of Dinwiddie

The foregoing document was signed and acknowledged before me this 16th day of March, 2020, by James A. Christina, who is VPGM of Chaparral (Virginia) Inc., on behalf of the corporation.

Notary seal:

Melody J. Day
Notary Public
237662
Registration No.



My commission expires: 9/30/2020

APPENDIX A SCHEDULE OF COMPLIANCE

Chaparral agrees to perform the following:

1. By May 1, 2020, submit an air permit application for ES25.

DEQ Contact

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

David Robinett
Air Compliance Manager
VA DEQ – Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
804-527-5128
804-527-5106 (fax)
david.robinett@deq.virginia.gov