



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
FEI, LTD.
FOR
FED, LTD.
Registration No. 81750**

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 FEI, LTD. regarding the FEI, LTD. facility for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the 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. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" means the FEI, LTD. facility, located at 37 Arnolds Valley Rd. in Natural Bridge Station, Virginia.
5. "FEI" means FEI, LTD., a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. FEI is a "person" within the meaning of Va. Code § 10.1-1300.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "O&M" means operations and maintenance.
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 a New Source Review permit to construct and operate a fabricated steel manufacturing facility which was issued under the Virginia Air Pollution Control Law and the Regulations to FEI, LTD. on March 2, 2018, and modified and reissued on January 10, 2019.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
15. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

SECTION C: Findings of Fact and Conclusions of Law

1. FEI owns and operates a fabricated steel manufacturing facility, located at 37 Arnolds Valley Road in Natural Bridge Station, Virginia. The Facility is the subject of the Permit which allows FEI to construct and operate the fabricated structural steel manufacturing Facility. Berlin Steel is the parent company of and owns FEI.
2. On May 2, 2017, DEQ staff conducted a PCE at the Facility as a result of a complaint. DEQ observed that FEI had constructed and was operating equipment, consisting of

spray guns, spray booths, and metal preparation, including plasma cutting and sandblasting.

3. 9 VAC 5-80-1120.A. states that: “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.”
4. 9 VAC 5-80-1210.E. states that: “Any owner who constructs or operates a new or modified source not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a new or modified source subject to this article who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section.”
5. On May 26, 2017, FEI submitted a Form 7 Air Permit Application to DEQ for the Facility. FEI reported in the permit application that new equipment installation and operation commenced in 1996. DEQ had no record of permit coverage for the Facility. The Form 7 was substantially incomplete.
6. On May 31, 2017, DEQ issued WL No. AVRO000654-001 to FEI for failure to submit documentation supporting exemption status.
7. Throughout 2017, DEQ worked with FEI, obtaining information required for Permit coverage for their operations at the Facility. FEI submitted to DEQ updated Form 7 applications on May 26, 2017 and August 8, 2017. FEI submitted additional information at the request of DEQ on October 13, 2017, November 13, 2017, and February 16, 2018.
8. On January 22, 2018, DEQ issued NOV No. AVRO000654-002 to FEI for construction and operation of air equipment which required permitting.
9. On February 14, 2018, DEQ met with FEI and Berlin Steel representatives at the Facility, and discussed next steps towards compliance, including compliance assistance from DEQ Air Compliance staff. FEI agreed to submit operational records for the number of hours the equipment had operated. Additionally, FEI explained that they attempted to utilize water based primers to avoid VOCs in 2015 and 2016, for the health of their employees and to reduce environmental impacts. However, the primer did not maintain quality and degraded, and FEI had to re-utilize the previous primer.
10. On February 16, 2018, the Form 7 Air Permit Application was deemed complete by DEQ.
11. On April 6, 2018, FEI submitted documentation detailing the operational hours of the Facility as Monday through Thursday, 5AM to 3PM, with potential overtime allowances on Friday and Saturday. The total number of hours of production and operation since 2013 was 13,122.5 hours.

12. On March 2, 2018, DEQ issued permit Registration No. 81750 to construct and operate a fabricated structural steel manufacturing facility (Permit) to FEI. On November 26, 2018, FEI submitted a Form 7 Application to modify the Permit in order to cover additional, newly purchased air equipment. FEI did not install or operate the equipment prior to the modified Permit issuance date of January 10, 2019..
13. On January 10, 2019, DEQ issued to FEI the significantly amended Permit, allowing FEI to construct and operate a fabricated structural steel manufacturing facility. The Permit accounted for new equipment at the Facility and increased the solvent throughput to 200 gallons.
14. On February 12, 2019, DEQ staff received the 2018 annual update submitted for operations at the Facility. The annual update indicated a throughput of 160 gallons of solvent for the spray gun cleaning operation
15. On February 19, 2019, DEQ issued NOV No. AVRO001119-001 to FEI for the solvent throughput Permit violation.
16. Condition 18 of the Permit [issued March 2, 2018] states that: “The throughput of spray gun cleaning solvent shall not exceed 100 gallons per year, calculated monthly as the sum of each consecutive 12-month period.”
17. On February 28, 2019, DEQ staff met with FEI representatives for compliance assistance and to discuss the NOV. FEI believed that the modified Permit, which increased the solvent throughput, was sufficient to maintain future compliance.
18. Based on the results of May 2, 2017 evaluation, documentation submitted on May 26, 2017 and February 12, 2019, and subsequent modified Form 7 applications submitted on August 8, 2017, October 13, 2017, November 13, 2017, and February 16, 2018, and the February 14, 2018 and February 28, 2019 meetings, the Board concludes that FEI has violated 9 VAC 5-80-1120.A, 9 VAC 5-80-1210.E, and Permit Condition 18 as described in paragraphs C(2) through C(17), above.
19. FEI has submitted documentation that verifies that the violations described in paragraphs C(2-3) and C(16), 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 FEI and FEI agrees to:

Pay a civil charge of \$28,134.05 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

FEI 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, FEI 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 FEI for good cause shown by FEI, 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 and in NOV No. AVRO001119-001 dated February 19, 2019, NOV No. AVRO000654-002 dated January 22, 2018, and WL No. AVRO000654-001 dated May 31, 2017. 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, FEI admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. FEI 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. FEI 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 FEI 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. FEI 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. FEI shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. FEI 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.

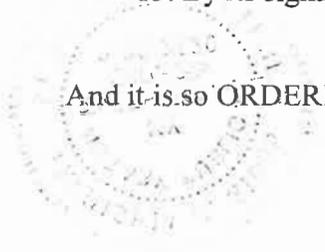
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and FEI. Nevertheless, FEI agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. the Director or his designee terminates the Order after FEI has completed all of the requirements of the Order;

- b. FEI 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 FEI.

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

And it is so ORDERED this 19th day of March, 2019.



NOTARY PUBLIC
for Amy T. Owens, Regional Director
Department of Environmental Quality

FEI, LTD. voluntarily agrees to the issuance of this Order.

Date: 3-19-19 By: [Signature], V.P.O
(Person) (Title)
FEI, LTD.

State of CT
~~Commonwealth of Virginia~~
City/County of Hartford

The foregoing document was signed and acknowledged before me this 19th day of March, 2019, by Mark Lajoie who is V.P. of operations of FEI, LTD., on behalf of the corporation.

[Signature]
Notary Public

Registration No. _____

My commission expires: 9/30/20

Notary seal:

Trenishia N. Gibbs
NOTARY PUBLIC
State of Connecticut
My Commission Expires Sept. 30, 2020

