



DEQ-VALLEY

JUL 25 2011

TO: _____

FILE: _____

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801

(540) 574-7800 Fax (540) 574-7878

www.deq.virginia.gov

Douglas W. Domenech
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
FEDERAL-MOGUL CORPORATION
FOR
FEDERAL MOGUL FRICTION PRODUCTS
Registration No. 80430**

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 Federal-Mogul Corporation, regarding Federal Mogul Friction Products, 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. "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 Federal-Mogul Corporation, Federal Mogul Friction Products facility, located at 2410 Papermill Road in Winchester, Virginia.
5. "Federal-Mogul" means Federal-Mogul Corporation, a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Federal-Mogul 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 (NSR) permit to modify and operate adhesive application lines and associated processes at a brake manufacturing facility which was issued under the Virginia Air Pollution Control Law and the Regulations to Federal-Mogul on August 19, 2010.
11. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, 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. Federal-Mogul owns and operates the Facility in Winchester, Virginia. The Facility is the subject of the Permit which allows for the operation of a brake manufacturing facility.
2. On May 6, 2011, DEQ received the Facility's stack test report for the testing of destruction efficiency of VOCs for the afterburner (PCD28) which controls emissions from adhesive lines PC1 and PC2.
3. On May 17, 2011, DEQ staff performed a PCE of the Facility records and this report 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 observation:

- a. The reported destruction efficiency of VOCs for Unit PCD28 was 79.2%.
4. Condition 6 of the Permit states: "Control Efficiency - The Afterburner (PCD28) shall maintain a destruction efficiency for VOC emissions of no less than 99.0 percent. (9 VAC 5-80-1180 and 9 VAC 5-50-260)"
5. On May 23, 2011, based on the PCE, the Department issued Notice of Violation No. AVRO7990 to Federal-Mogul for the violations described in paragraphs C(2) through C(4) above.
6. On June 2, 2011, Federal-Mogul responded to the NOV by telephone. During discussions, Federal-Mogul stated that they had submitted a corrective action plan to DEQ and requested that the plan be reviewed for inclusion in a Consent Order.
7. Based on the results of the May 17, 2011 PCE, the June 2, 2011 telephone call, and the documentation submitted on May 6, 2011, the Board concludes that Federal-Mogul has violated Permit condition 6, as described in paragraph C(4) above.
8. In order for Federal-Mogul to complete its return to compliance, DEQ staff and representatives of Federal-Mogul 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 Federal-Mogul Corporation, and Federal-Mogul Corporation agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$9,555.00** 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

Federal-Mogul Corporation 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 Federal-Mogul for good cause shown by Federal-Mogul, 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, Federal-Mogul admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Federal-Mogul 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. Federal-Mogul 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 Federal-Mogul 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. Federal-Mogul 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. Federal-Mogul shall demonstrate that such circumstances were beyond its control and not due to a lack of

good faith or diligence on its part. Federal-Mogul 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 Federal-Mogul.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Federal-Mogul has completed all of the requirements of the Order;
 - b. Federal-Mogul 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 Federal-Mogul.

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

And it is so ORDERED this 27th day of July, 2011



Amy Thatcher Owens, Regional Director
Department of Environmental Quality

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Federal-Mogul Corporation voluntarily agrees to the issuance of this Order.

Date: 7/22/11 By: Roger Rodriguez, _____
Plant Manager
Federal-Mogul Corporation

Commonwealth of Virginia
City/County of Winchester

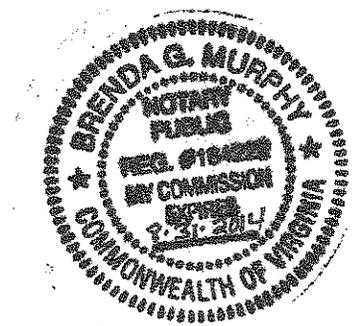
The foregoing document was signed and acknowledged before me this 22nd day of
July, 2011, by Roger Rodriguez who is
Plant Manager of Federal-Mogul Corporation, on behalf of the corporation.

Brenda G. Murphy
Notary Public

184222
Registration No.

My commission expires: 8-31-2014

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Permit Required to Construct or Operate

Federal-Mogul shall not construct or operate a facility that requires a permit under 9 VAC 5-80-1120(A) without first obtaining such a permit.

- a. Upon the effective date of this Order, Federal-Mogul may operate the PC1/PC2 process lines without the use of the afterburner (PCD28). The combined adhesive throughput for PC1 and PC2 must not exceed 10,000 pounds per month. Once the minor NSR permit modification is issued, that permit shall supersede this provision.
- b. Within 45 days of the execution of this Order, Federal-Mogul shall submit to DEQ, an Air Permit Application (Form 7), to reflect the operational processes and associated equipment at the Facility. The Form 7 shall include language detailing operating parameters, production scenarios, Material Safety Data Sheets (MSDSs) and any other information related to air emissions at the Facility. This permit application will request a lower throughput limit for annual adhesive consumption, removal of adhesive line PC3 and removal of afterburner PCD28.
- c. Within 90 days of the execution of this Order, Federal-Mogul shall supply sufficient information needed for the Department to evaluate the application and issue a permit if required.
- d. If Federal-Mogul is unable to provide any information requested by the Department, it shall submit correspondence demonstrating reasonable progress is being made toward meeting the request within four business days of discovery.
- e. Within 30 days of the execution of this Order, Federal-Mogul shall submit all required notifications required under 9 VAC 5-50-50(A).

2. Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports submitted to DEQ pursuant to this Consent Order, Federal-Mogul, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there

are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. **DEQ Contact**

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

**Karen Hensley
Enforcement Specialist
VA DEQ –Valley Regional Office
P.O. Box 3000
4411 Early Road
Harrisonburg, VA 22801
Phone: (540) 574-7821
Fax: (540) 574-7878
Email: karen.hensley@deq.virginia.gov**