



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY  
SOUTHWEST REGIONAL OFFICE  
355-A Deadmore Street, Abingdon, Virginia 24210  
Phone (276) 676-4800 Fax (276) 676-4899  
www.deq.virginia.gov

Molly Joseph Ward  
Secretary of Natural Resources

RECEIVED  
FEB 05 2018  
DEQ SWRO

David K. Paylor  
Director

Jeffrey Hurst  
Regional Director

## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO MEC, INC.

**Registration No. 11658**

### **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 MEC, Inc., 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 meanings 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 MEC, Inc., located at 180-190 Appalachia Drive, Wytheville, Wythe County, Virginia, which is permitted to operate a steel fabrication cleaning and powder-coating facility.

5. "MEC, Inc." means Mayville Engineering Company, Inc., owned by MEC, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. MEC, Inc. 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. "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.
8. "PCE" means a partial compliance evaluation by DEQ staff.
9. "Permit" means the minor New Source Review permit to modify and operate a steel fabrication cleaning and powder-coating facility which was issued under the Virginia Air Pollution Control Law and Regulations to Mayville Engineering Company Inc. on August 22, 2017.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution", means 9 VAC 5 chapters 10 through 80.
10. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "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 Facts and Conclusions of Law**

1. MEC, Inc. owns and operates the Facility in Wythe County, Virginia. The Facility operates a steel fabrication cleaning and powder-coating facility pursuant to the Permit issued on August 22, 2017.
2. On September 12, 2017, DEQ staff conducted a PCE of the Facility. During the PCE, DEQ staff observed a wet spray booth had been installed without a permit. DEQ staff also obtained records demonstrating the wet spray booth was operating.
3. 9 VAC 5-80-1120 (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.”

4. Va. Code § 10.1-1322(A) gives the Department the authority to issue, amend, revoke or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Air Pollution Control Law.
5. On October 4, 2017, based on the September 12, 2017 PCE, the Department issued a Notice of Violation No. ASWRO000721 to MEC, Inc. for the alleged violation described in paragraph C(2) above.
6. On October 6, 2017, the Department received an electronic response to the NOV from the Facility. On October 20, 2017, the Facility submitted a detailed electronic response to the NOV and a permit application for the wet paint line application. On November 20, 2017, the Facility submitted detailed monthly production and emissions data.
7. Based on the results of the September 12, 2017 PCE, the October 6, 2017 electronic response the October 20, 2017 detailed electronic response, and the November 20, 2017 correspondence, the Board concludes that MEC, Inc. has violated 9 VAC 5-80-1120(A) as described in paragraph C(2) and C(3).

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders MEC, Inc. and MEC, Inc. agrees to:

Pay a civil charge of \$10,572 within 30 days of the effective date of the Order in settlement of the violation cited in this Order.

Each 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

MEC, Inc. 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, MEC, Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of MEC, Inc. for good cause shown by MEC, Inc. , 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 only those violations specifically identified in Section C of this Order and NOV No.ASWRO000721 dated October 4, 2017. This Order shall not preclude the Board or 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, MEC, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. MEC, Inc. 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. MEC, Inc. 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 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 or Director to modify, rewrite, amend, or enforce this Order.
6. Failure by MEC, Inc. 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. MEC, Inc. 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. MEC, Inc. shall demonstrate that such circumstances were beyond its control and

not due to a lack of good faith or diligence on its part. MEC, Inc. shall notify 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 this Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of 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 listed above, which the parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their 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 MEC, Inc. Nevertheless, MEC, Inc. 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 MEC, Inc. has completed all of the requirements of the Order.
  - b. MEC, Inc. 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 MEC, Inc..

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

And it is ORDERED this 5<sup>th</sup> day of February, 2018

  
Jeffrey L. Hurst - Regional Director  
Department of Environmental Quality

MEC, Inc. voluntarily agrees to the issuance of this Order.

Date: 2/1/18 By: Frank Castanon  
Frank Castanon, Vice President of Operations  
MEC, Inc.

Commonwealth of Virginia

City/County of Wythe

The foregoing document was signed and acknowledged before me this 1 day of  
Feb, 2018 by Frank Castanon who is  
Vice President of Operations of MEC, Inc., on behalf of  
the corporation.

Kristin Jackson  
Notary Public

7292245  
Registration No.

My commission expires: Apr. 30, 2021

Notary Seal:

