



# **COMMONWEALTH of VIRGINIA**

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

VALLEY REGIONAL OFFICE

Douglas W. Domenech  
Secretary of Natural Resources

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David K. Paylor  
Director

Amy Thatcher Owens  
Regional Director

### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO MUNTERS CORPORATION FOR MUNTERS DES CHAMPS Registration No. 81310**

#### **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 Munters Corporation, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the Permit and 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 Munters Des Champs facility that operates a heating, ventilation, and air conditioning equipment manufacturing plant located at 225 South Magnolia

Avenue in Buena Vista, Rockbridge County, Virginia.

5. "FCE" means Full Compliance Evaluation by DEQ staff.
6. "Munters" means Munters Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Munters Corporation is a "person" within the meaning of Va. Code § 10.1-1300.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "NSR Permit" means the New Source Review permit which was issued under the Virginia Air Pollution Control Law and the Regulations to Munters Des Champs on February 14, 2008.
9. "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.
10. "PCE" means Partial Compliance Evaluation by DEQ staff.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "SOP" means the State Operating Permit, which was issued under the Virginia Air Pollution Control Law and the Regulations to Munters Des Champs on November 8, 2004, as amended on March 31, 2008.
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. Munters Corporation owns and operates a heating, ventilation, and air conditioning equipment manufacturing facility located in Rockbridge County, Virginia.
2. Munters Des Champs is subject to a NSR permit dated February 14, 2008 and a SOP dated November 8, 2004, as amended March 31, 2008.
3. On March 8, 2013, DEQ staff performed an FCE at the Facility and observed the following:

- a. No notification letter was available for the start-up of the foam injection process.

Condition 17 of the Facility's NSR permit states that "The permittee shall furnish written notification to the Director, Valley Region, of:...

d. The actual start-up date of the foam injection process (FI), within 15 days after such date."

- b. Facility records indicate that the daily average throughput of Part A coating to the foam spray process was greater than 2.4 gallons per hour for fifteen separate days during the past five years.

Condition 29 of the Facility's NSR permit states that "The throughput of Part A coating to the foam spray process (FS) shall not exceed 2.4 gallons per hour, calculated as a daily average."

- c. Facility records indicate that the hourly emissions of diphenylmethane diisocyanate were greater than 0.0066 pounds per hour on seventeen days during the past five years.

Condition 34 of the facility's NSR permit states that "The Emissions from the operation of the foam spray process (FS) shall not exceed the limits specified below:

Diphenylmethane diisocyanate (MDI)	0.0066 lbs/hr	0.0054 tons/yr
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These emissions are derived from the estimated overall emissions contribution from operating limits. Exceedance of the operating limits may be considered credible evidence of the exceedance of emission limits. Compliance with the emission limits may be determined as states in Conditions 28, 29, 30 and 36."

- d. Maintenance records for the foam injection process were not available.

Permit Condition 8 of the Facility's SOP states that "At all times, including periods of start-up, shutdown, and malfunction, the permittee shall, to the extent practicable, maintain and operate the affected source, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions.

The permittee shall take the following measures in order to minimize the duration and frequency of excess emissions, with respect to air pollution control equipment and process equipment which affect such emissions:

- a. Develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance..."

Condition 23 of the facility's NSR permit states that "At all times, including periods

of start-up, shutdown, and malfunction, the permittee shall, to the extent practicable, maintain and operate the affected source, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions.

The permittee shall take the following measures in order to minimize the duration and frequency of excess emissions, with respect to the paint spray booth (SB2), the foam spray process (FS) and the foam injection process (FI):

- a. Develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance.”
4. On April 15, 2013, based on the March 8, 2013 FCE, the Department issued Notice of Violation (NOV) No. AVRO8658 to Munters for the violations described in paragraph C(3) above.
5. On April 30, 2013, DEQ staff met with representatives of Munters to discuss the NOV. The facility submitted calculations that indicated that actual emission factors for MDI were lower than those used in the original permit application. The Facility plans to submit a new permit application to reflect lower emission factors. Facility representatives committed to adhering to currently permitted throughput and emission limits until a new permit was issued. Additional information, including the start-up notification for the foam injection process, maintenance and training records, was requested to be submitted to DEQ within two weeks.
6. On May 14, 2013, the records requested in the April 30, 2013 meeting were submitted by Munters.
7. On May 14, 2013, DEQ staff performed a Partial Compliance Evaluation of the records provided on May 14, 2013 and determined that the Facility was in compliance with conditions 17d and 23a of the NSR Permit and condition 8 of the SOP.
8. On May 28, 2013, DEQ received an electronic submittal from Munters that disclosed findings from a voluntary environmental self assessment conducted by Faulkner & Flynn Environmental Management Consultants on May 8, 9 and 10, 2013. The self assessment report indicated that Munters exceeded the VOC concentration limit of 3.5 lbs VOC/gal.
  - a. Condition 5 of the Facility’s NSR permit states that “VOC emissions from use of performance coatings in the paint spray booth (SB2) are limited to 3.5 lbs VOC/gal, excluding water, as a daily average.”
9. On June 19, 2013, DEQ received an electronic submittal from Munters that provided economic benefit analysis information related to the May 28, 2013 voluntary disclosure. This submittal indicated that a production processes that uses lower VOC coatings was outsourced while other processes that utilize higher VOC coatings continued to operate. This resulted in a higher daily average VOC concentration for the Facility. Actual total

VOC emissions from the Facility were reduced.

10. DEQ received an electronic submittal from Munters that provided economic benefit analysis information related to the May 28, 2013 voluntary disclosure.
11. Based on the results of the March 8, 2013 evaluation and the May 28, 2013 submittal, the Board concludes that Munters has violated SOP condition 8 and NSR Permit Conditions 5, 17d, 23a, 29 and 34 as described in paragraph C(3) and C(8) above.
12. In order for Munters to complete its return to compliance, DEQ staff and representatives of Munters 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 Munters, and Munters agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$5,316.00** 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

Munters 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 Munters for good cause shown by Munters, 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, Munters 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. Munters consents to venue in the Circuit Court of the City of Richmond, Virginia for any civil action taken to enforce the terms of this Order.
5. Munters 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 Munters 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. Munters 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 occurrence. Munters shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Munters 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.

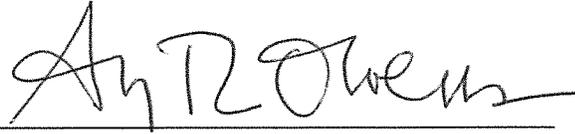
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Munters intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, 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 Munters. Nevertheless, Munters 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 Munters has completed all of the requirements of the Order;
  - b. Munters 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 Munters.

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

And it is so ORDERED this 29<sup>th</sup> day of July, 2013



Amy T. Owens, Regional Director  
Department of Environmental Quality

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Munters Corporation voluntarily agrees to the issuance of this Order.

Date: July 12/2013 By: Maj-Britt Hallmark, \_\_\_\_\_  
Maj-Britt Hallmark President  
Munters Corporation

Commonwealth of ~~Virginia~~ MASS  
City/County of Essex

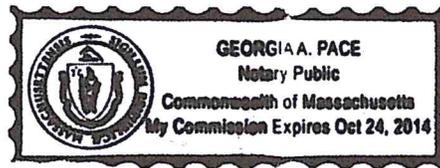
The foregoing document was signed and acknowledged before me this 12 day of  
July, 2013, by Maj-Britt Hallmark who is  
President of Munters, on behalf of Munters.

Georgia A. Pace  
Notary Public

NO Registration No. for MASS Notaries  
Registration No. see attached

My commission expires: 10/24/14

Notary seal:



## **APPENDIX A SCHEDULE OF COMPLIANCE**

### Agreed Actions

Accordingly, Munters agrees to:

1. Within 45 days of the execution of this Order, submit to DEQ the information needed to complete the 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.
2. Within 90 days of the execution of this Order, supply sufficient information needed for the Department to evaluate the application and issue a permit if required.

### Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports, including, without limitation, the SEP Completion Report, submitted to DEQ pursuant to this Consent Order, Munters, 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.”

### DEQ Contact

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

Karen Hensley  
Enforcement Specialist Sr.  
VA DEQ –Valley Regional Office  
4411 Early Road  
P.O. Box 3000  
(540) 574-7821 - phone  
(540) 574-7878 - fax  
karen.hensley@deq.virginia.gov