



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
TIDEWATER REGIONAL OFFICE

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Secretary of Natural Resources

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Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
PERDUE AGRIBUSINESS LLC
FOR
Perdue Agribusiness LLC – Chesapeake Facility
Registration No. 60277**

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 Perdue Agribusiness LLC - Chesapeake for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, and the applicable Prevention of Significant Deterioration permit and Federal Title V Operating 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 citizen's 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 Perdue soybean oil extraction plant located at 501A Barnes Road, Chesapeake, Virginia.
5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

6. "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.
7. "Perdue" means Perdue Agribusiness LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Perdue is a "person" within the meaning of Va. Code § 10.1-1300.
8. "PSD Permit" means a Prevention of Significant Deterioration Stationary Source to Construct and Operate Permit which was issued under the Virginia Air Pollution Control Law and the Regulations to Perdue Agribusiness LLC – Chesapeake on July 12, 2017.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
10. "Title V Permit" means a Title V Federal Operating Permit, which was amended under the Virginia Air Pollution Control Law and Regulations to Perdue Agribusiness LLC – Chesapeake on July 12, 2017.
11. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
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.

SECTION C: DEQ Findings of Fact and Conclusions of Law

1. Perdue owns and operates the Facility in Chesapeake, Virginia, which processes soybeans through a soybean oil extraction plant to obtain soybean oil for commercial purposes.
2. Perdue is subject to the PSD Permit and the Title V Permit. The PSD Permit and the Title V Permit authorized Perdue to discharge, within limits, hexane solvent emissions from the hexane recovery process to the ambient air during the extraction of soybean oil from soybeans.
3. By email dated November 28, 2018 and letters dated January 3, 2019 and May 6, 2019, Perdue reported that during the months of October 2018 and December 2018 the monthly solvent loss ratio ("SLR") deviated from the PSD Permit and Title V Permit conditions limiting the SLR to 0.18 gallons per tons of beans processed.
4. The SLR exceedance that began in October 2018 continued until August 2019, calculated monthly as the sum of each consecutive 12-month period.

5. The PSD Permit and Title V Permit SLR exceedances ranged from 0.19 to 0.20 as shown in the table below (calculated monthly as the sum of each consecutive 12-month period):

| Report Month | Reported SLR (Permit Limit 0.18) | % over limit |
|---------------|----------------------------------|--------------|
| October 2018 | 0.19 | 5.6 |
| November 2018 | 0.20 | 11.1 |
| December 2019 | 0.20 | 11.1 |
| January 2019 | 0.20 | 11.1 |
| February 2019 | 0.19 | 5.6 |
| March 2019 | 0.19 | 5.6 |
| April 2019 | 0.20 | 11.1 |
| May 2019 | 0.20 | 11.1 |
| June 2019 | 0.20 | 11.1 |
| July 2019 | 0.19 | 5.6 |
| August 2019 | 0.19 | 5.6 |

6. The PSD Permit condition 33 limits the SLR of solvent to not more than 0.18 gallons solvent per tons of soybeans processed, calculated monthly as the sum of each consecutive 12-month period.
7. The Title V Permit condition 88 limits the SLR of solvent to not more than 0.18 gallons solvent per tons of soybeans processed, calculated monthly as the sum of each consecutive 12-month period.
8. Va. Code § 10.1-1322(A) provides that permits may be issued, amended, revoked, or terminated and reissued by the Department and may be enforced under the provisions of this chapter in the same manner as regulations and orders.
9. On October 8 2019, based upon the January 3, 2019 report from Perdue, DEQ issued NOV number ATRO001333 for exceedance of the PSD Permit Condition 33 and exceedance of the Title V Permit condition 88 limiting SLR to not more than 0.18 gallons solvent per tons of soybeans processed as described in paragraphs C3 through C7, above.
10. On November 8, 2019, Perdue submitted written response to the NOV. According to the letter, in addition to the frozen soybean oil extractor during January 2018, equipment and raw material issues occurred during June, July, and August, resulting in some solvent loss with the monthly SLR averages exceedances that continued through August 2019. According to Perdue records, there have not been any SLR exceedances since August 2019.
11. Based on the January 3, 2019 report from Perdue, the Board concludes that Perdue violated the PSD Permit condition 33 and Title V Permit condition 88 as described in paragraphs C(3) through C(8), above.
12. Perdue submitted documentation on November 8, 2019 that verified that the violations described in paragraphs C(3) through C(8) 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 Perdue, and Perdue agrees to pay a civil charge of \$15,000 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

Perdue 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, Perdue 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 Perdue for good cause shown by Perdue, 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 the Perdue NOV No. ATRO001333 dated October 8, 2019. 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, Perdue admits the jurisdictional allegations contained herein.
4. Perdue 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. Perdue 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 Perdue 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. Perdue 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. Perdue shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Perdue 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.

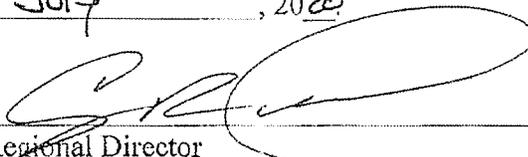
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Perdue. Nevertheless, Perdue agrees to be bound by any compliance date, which precedes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

- b. Perdue 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 Perdue.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Perdue from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. The undersigned representative of Perdue 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 Perdue to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Perdue.
- 13. 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.
- 14. By its signature below, Perdue voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2nd day of July, 2020



Regional Director
Department of Environmental Quality

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Consent Order
Perdue Agribusiness LLC
Registration No. 60277
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Perdue voluntarily agrees to the issuance of this Order.

Date: 7/2/20 By: James L. Hearne, Sr. Dir. of Crush
(Person) (Title)

Perdue Inc.
Agri Business LLC sam

STATE OF MARYLAND
Commonwealth of Virginia
City/County of TALBOT

The foregoing document was signed and acknowledged before me this 2ND day of

JULY, 2020 by JAMES L HEARNE who is

Sr. Director of Crush of Perdue, on behalf of the limited liability company.

Mary C Klean
Notary Public

Registration No.

My commission expires: 7-8-2021

Notary seal:

