



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Michael P. Murphy
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO SUPER RADIATOR COILS LIMITED PARTNERSHIP FOR SUPER RADIATOR COILS Registration No. 50906

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 Super Radiator Coils Limited Partnership, regarding Super Radiator Coils facility, 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 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. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" means the Super Radiator Coils Limited Partnership facility, located at 451 Southlake Boulevard, Chesterfield County, Virginia.
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. "Permit" means the Title V permit to operate a facility that manufactures heat transfer coils, which was issued under the Virginia Air Pollution Control Law and the Regulations to Super Radiator Coils on June 1, 2006.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "SRC" means Super Radiator Coils Limited Partnership, a partnership and its affiliates, partners, and subsidiaries. SRC is a "person" within the meaning of Va. Code § 10.1-1300.
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: Findings of Fact and Conclusions of Law

1. SRC owns and operates the Facility in Chesterfield County, Virginia. The Facility is the subject of the Permit, which allows the operation of the heat transfer coil manufacturing facility.
2. On December 7, 2009, the Department sent a letter to SRC reminding them that the Title V permit renewal application was due at least six months but not earlier than eighteen months prior to the date of the permit expiration. SRC did not submit the Title V permit renewal application to DEQ by December 1, 2010. The Facility has continued to operate.
3. On April 4, 2011, Department staff met with representatives of SRC and conducted a Partial Compliance Evaluation of the Facility record 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) SRC did not submit a Title V permit renewal application to DEQ at least six months to the expiration of their current Permit (or by December 1, 2010). The Facility has continued to operate.
4. Condition VII.B of the Permit, issued in accordance with 9 VAC 5-80-80(B), (C), and (F); 9 VAC 5-80-110 (D) and 9 VAC 5-80-170 (B), states: This permit has a fixed term of five years. The expiration date shall be the date five years from the date of issuance. Unless the owner submits a timely and complete application for renewal to the Department consistent with the requirements of 9 VAC 5-80-80, the right of the facility to operate shall be terminated upon permit expiration.
 1. The owner shall submit an application for renewal at least six months but no earlier than eighteen months prior to the date of permit expiration...
 3. No source shall operate after the time that is required to submit a timely and complete application under subsections C and D of 9 VAC 5-80-80 for a renewal permit, except in compliance with a permit issued under Article 1, Part II of 9 VAC 5 Chapter 80.
5. 9 VAC 5-80-260(A)(1) requires compliance with all terms and conditions of the Permit.
6. Va. Code § 10.1-1322 states that failure to meet conditions of a permit is considered a violation.
7. On April 11, 2011, SRC submitted a Title V renewal application for the operation of the Facility.
8. On May 9, 2011, based on the evaluation and follow-up information, the Department issued Notice of Violation No. 11-04-PRO-401 to SRC for the violation described in paragraphs C2 through C5, above.
9. Based on the results of the April 4, 2011 meeting and evaluation, and the Title V renewal application submitted on April 11, 2011, the Board concludes that SRC has violated Permit condition VII.B and 9 VAC 5-80-80 B, C, and F, as described in paragraphs C2 through C6, above.
10. In order for SRC to return to compliance, DEQ staff and representatives of SRC have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.
11. SRC acknowledges that it will operate the Facility at its own risk, and that DEQ will not consider these actions by SRC as factors in its decision regarding the April 11, 2011 permit application.

SECTION D: Agreement and Order

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

1. Perform the actions described in Appendices A of this Order; and
2. Pay a civil charge of **\$4,836** 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

SRC 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 SRC for good cause shown by SRC, 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, SRC admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law in this Order.
4. SRC 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. SRC 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 SRC 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. SRC does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
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. SRC 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. SRC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. SRC 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 SRC 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 SRC. Nevertheless, SRC agrees to be bound by any compliance date which precedes the effective date of this Order.

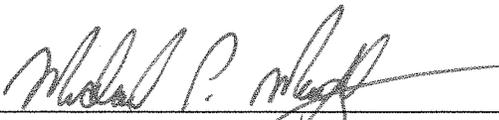
11. This Order shall continue in effect until:

- a. SRC 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
- b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to SRC.

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

And it is so ORDERED this 23 day of MAY, 2011.



Michael P. Murphy, Regional Director
Department of Environmental Quality

Super Radiator Coils Limited Partnership voluntarily agrees to the issuance of this Order.

Date: 5/23/11 By: *Matthew Holland*, Partner
(Person) MATTHEW HOLLAND
Super Radiator Coils Limited Partnership

Commonwealth of Virginia

City/County of Chesterfield

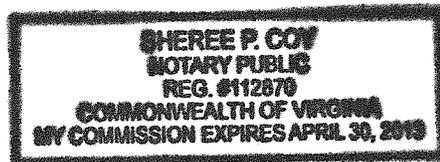
The foregoing document was signed and acknowledged before me this 23rd day of
May, 2011, by MATTHEW HOLLAND, Partner on
behalf of Super Radiator Coils Limited Partnership, a partnership.

Sherie P Coy
Notary Public

112870
Registration No.

My commission expires: 4/30/2013

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Operations

Until such time that DEQ issues a case decision regarding the Title V permit renewal application received on April 11, 2011, SRC may operate the Facility, provided that SRC complies with the following conditions:

- a. SRC shall meet the conditions established in the June 1, 2006 Title V operating permit.
- b. SRC shall resubmit the TV Semiannual Monitoring Report ("SAMR") and Annual Compliance Certification ("ACC") for 2010 to document the failure to submit a timely and complete Title V permit renewal application to DEQ. SRC must submit the amended SAMR and ACC to DEQ by **no later than July 1, 2011**.

Any case decision issued by DEQ regarding the April 11, 2011 Title V permit renewal application, shall immediately supersede condition 1.a of Appendix A of this Consent Order.

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, SRC, 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, SRC shall submit all requirements of Appendix A of this Order to:

Jennifer Hoeffner
Enforcement Specialist, Sr.
VA DEQ – Piedmont Regional Office
4949-A Cox Road

Charles "Boots" King
Air Compliance Manager
VA DEQ – Piedmont Regional Office
4949-A Cox Road

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