

SEP 17 2012

TO: _____

FILE: _____



AVR08505

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 TREX COMPANY, INC.

FOR
TREX COMPANY – WINCHESTER MANUFACTURING SITE
Registration No. 81146

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 Trex Company, Inc., 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 wood/polymer composite lumber manufacturing plant, located at 3229 Shawnee Drive, in Winchester, Virginia, used by Trex Company, Inc.
5. "Trex" or "Trex Company" means Trex Company, Inc., a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Trex Company, 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 New Source Review (NSR) permit to operate a wood/polymer composite lumber manufacturing facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Trex Company, Inc., on April 20, 2012.
10. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
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. Trex owns and operates the Facility in Winchester, Virginia. The Facility is subject to the Permit which allows for the modification and operation of a wood/polymer composite lumber manufacturing plant, including the operation of steam screws, mixers and die faces.
2. On April 24, 2012, Department staff conducted a PCE at the Facility and 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 observations:

DEQ staff observed the stack test performed to measure formaldehyde emissions from the Steam Screw and Mixer/Die Face of Line 214 in Building 4 at the Facility.

Subsequent review of the stack test results received on May 31, 2012, reports a formaldehyde emission rate of 0.0879 lb/hr.

3. Condition 55 of the Permit limits the Formaldehyde emissions for the Mixer/Die Face of Lines 210 - 215 in buildings 1 and 4 to 0.057 lbs/hr. (9 VAC 5-50-260, 9 VAC 5-60-320 and 9 VAC 5-80-1180)
4. On June 13, 2012, based on the April 24, 2012 PCE, the Department issued Notice of Violation No. AVRO8416 to Trex for the violations described in paragraph C(2) and C(3), above.
5. On June 25, 2012, DEQ staff met with representatives of Trex staff to discuss the violation, including any possible corrective actions to return the Facility to compliance. During this meeting, Trex proposed a corrective action plan that involved the installation of an emissions collection system and pollution control device for the control of formaldehyde.
6. Based on the results of the April 24, 2012 PCE, the June 25, 2012 meeting and documentation submitted on May 31, 2012, the Board concludes that Trex violated Condition 55 of the Permit as described in paragraphs C(2) and C(3) above.
7. In order for Trex to complete its return to compliance, DEQ staff and representatives of Trex 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 Trex and Trex agrees to:

1. Perform the actions described in Appendix A of this Order.
2. Pay a civil charge of \$7,088.00 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

Trex shall include its Federal Employer Identification Number (54-1910453) 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 Trex for good cause shown by Trex 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, Trex admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Trex consents to venue in the Circuit Court of Frederick County for any civil action taken to enforce the terms of this Order.
5. Trex 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 Trex 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. Trex 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. Trex shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Trex 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 Trex 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 Trex. Nevertheless, Trex 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. Trex 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 Trex.

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

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, Trex voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 18th day of September, 2012.

Amy Thatcher Owens
Amy Thatcher Owens, Regional Director
Department of Environmental Quality

Trex Company, Inc., voluntarily agrees to the issuance of this Order.

Date: 9/14/12 By: Wesley Reid, Site Manager
(Person) (Title)
Trex Company, Inc.

Commonwealth of Virginia
City/County of WINCHESTER/FREDERICK

The foregoing document was signed and acknowledged before me this 14th day of SEPTEMBER, 2012, by Wesley Reid who is SITE MANAGER of Trex Company, Inc., on behalf of the corporation.

Kristy D. Steele
Notary Public
7267740
Registration No.

My commission expires: June 30, 2013
Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Permit Required to Construct or Operate

Trex 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. By September 30, 2012, Trex 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. Additionally, Trex shall submit a copy of an accepted and signed contract for the purchase and installation of all proposed air pollution control equipment.
- b. Within 90 days of the execution of this Order, Trex shall supply sufficient information needed for the Department to evaluate the application and issue a permit if required.
- c. By January 1, 2013, Trex shall submit copies of accepted and signed contracts for the installation of the collection system and electrical portions for the installation of all proposed air pollution control equipment.
- d. Installation of all proposed air pollution control equipment shall be completed by April 30, 2013 and Trex shall notify DEQ as soon as construction is completed.
- e. To ensure compliance with applicable emission limits, performance testing of all newly installed air pollution control equipment shall be completed and all test results submitted by July 30, 2013. All performance testing shall be conducted in accordance with applicable permit requirements, excluding any alternate performance or report submittal dates in the permit.
- f. Trex shall keep records at the Facility sufficient to calculate monthly and annual emissions until a Permit is issued. Records shall also include fuel usage, production values, maintenance logs, and operator training.
- g. If Trex 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.
- h. Within 30 days of the execution of this Order, Trex shall submit all 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, without limitation, submitted to DEQ pursuant to this Consent Order, Trex, 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, Trex shall submit all requirements of Appendix A of this Order to:

David Robinett
Enforcement Specialist
VA DEQ –Valley Regional Office
PO Box 3000
Harrisonburg, VA 22801
540-574-7862
540-574-7878
david.robinett@deq.virginia.com