



# **COMMONWEALTH of VIRGINIA**

Molly Joseph Ward  
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY  
**Blue Ridge Regional Office**  
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David K. Paylor  
Director

Robert J. Weld  
Regional Director

**STATE AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
WOLVERINE ADVANCED MATERIALS, LLC  
FOR  
Main Plant - Registration No. 20763  
AND  
Cedar Run Plant - Registration No. 21240**

## **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 Wolverine Advanced Materials, LLC, 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. "BRRO-R" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" or "Plant" means the Wolverine Main Plant, Registration No. 20763 and/or the Wolverine Cedar Run Plant, Registration No. 21240.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Order" means this document, also known as an "Order by Consent" or "Consent Order", a type of Special Order under the Virginia Air Pollution Control Law.
9. "PCE" means a Partial Compliance Evaluation performed by DEQ staff.
10. "Permits" means the Title V Air Permits ("TV"), Registration No. 20763 (Main Plant), and Registration No. 21240 (Cedar Run Plant), which were issued under the Virginia Air Pollution Control Law and Regulations to Wolverine Advanced Materials, LLC on January 17, 2006 and June 24, 2016 (Main Plant) and June 25, 2014, (Cedar Run Plant), respectively.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Wolverine" means Wolverine Advanced Materials, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Wolverine is a "person" within the meaning of Va. Code § 10.1-1300.
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. Wolverine Advanced Materials, LLC ("Wolverine") operates two metal coil coating facilities in the Town of Blacksburg, Virginia. The Main Plant is located at 201 Industrial Park Road, and the Cedar Run Plant is located at 3175 State Street.
2. The Department issued a Title V Air Permit ("Permit") to Wolverine on January 17, 2006, and June 24, 2016 for the Main Plant, under Registration No. 20763, and on June

- 25, 2014 for the Cedar Run Plant, under Registration No. 21240; both of which allow operation and emissions in strict accordance with their terms.
3. The Permits contain the following monitoring and reporting requirements to allow the Department to determine the Facility's compliance with the emission limits enumerated in the Permits:
    - a. Condition 45 of the Title V Permit issued on January 17, 2006, and Condition 46 of the Title V Permit issued on June 24, 2016, Registration No. 20763 (Main Plant) requires the permittee to maintain records of all emission data and operating parameters necessary to demonstrate compliance with the Permit.
    - b. Condition 59 of the Title V Permit issued on January 17, 2006, and Condition 60 of the Title V Permit issued on June 24, 2016, Registration No. 20763 (Main Plant) requires the retention of all monitoring data and support information for at least five years from the date of the monitoring sample, measurement, report or application.
    - c. Condition 51 of the Title V Permit issued on June 25, 2014, Registration No. 21240 (Cedar Run Plant) requires the permittee to maintain records of all emission data and operating parameters necessary to demonstrate compliance with the Permit.
    - d. Condition 65 of Title V Permit issued on June 25, 2014, Registration No. 21240 (Cedar Run Plant) requires the retention of all monitoring data and support information for at least five years from the date of the monitoring sample, measurement, report or application.
  4. On October 6, 2016, Department staff conducted a PCE of the Main and Cedar Run Facilities Semi-Annual Monitoring Reports submitted on September 1, 2016. The PCE revealed that the Main Plant was unable to provide temperature records for the thermal oxidizers on lines 2 and 4 for 174 days in the reporting period. The Cedar run facility was unable to provide temperature records for the line 5 catalytic oxidizer for 106 days, and the line 6 catalytic oxidizer for 151 days during the reporting period.
  5. The Department issued Notice of Violations ("NOV") numbers ABBRO 000534 and ABBRO 000533 to Wolverine on October 26, 2016 to address the violations. The Department received a response to the NOVs from Wolverine staff on November 2, 2016 via email.
  6. 9 VAC 5-80-110 (F) states, *inter alia*, the permit shall contain terms and conditions setting out all applicable reporting requirements and require submittal of reports of any required monitoring at least every six months.
  7. The Facilities are subject to 40 CFR 63 Subpart SSSS, the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.

8. 9 VAC 5-170-160 states, *inter alia*, The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits.
9. Virginia Code § 10.1-1322(A) states, *inter alia*, 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. Failure to comply with any condition of a permit shall be considered a violation of this chapter and investigations and enforcement actions may be pursued in the same manner as is done with regulations and orders of the Board under the provisions of this chapter.
10. On November 15, 2016 Wolverine representatives met with DEQ enforcement staff in the Department's Blue Ridge Regional Office ("BRRO") located in Roanoke, Virginia to discuss the violations. The Department was informed during the meeting that additional unreported data had been discovered due to the failure of a remote server. The Main Plant had an additional 203 days of missing temperature records, and the Cedar Run facility had an additional 493 days of missing temperature records.
11. Based on the results of the PCEs conducted by Department staff, the documentation submitted by Wolverine, and the meeting with Wolverine representatives, the Board concludes that Wolverine Advanced Materials, LLC has violated, 10.1-1322(A), 9 VAC 5-80-110 (F), and 40 CFR 63 MACT, Subpart SSSS, as described, above.

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

By virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316 and upon consideration of Va. Code § 10.1-1186.2, the Board orders Wolverine Advanced Materials, LLC, and Wolverine Advanced Materials, LLC agrees:

1. To perform the actions described in Appendix A of this Order; and
2. To a civil charge of \$40,544.96 in settlement of the violations cited in this Order, to be paid as follows:
  - a. Wolverine Advanced Materials, LLC shall pay \$10,136.24 of the civil charge within 30 days of the effective date of this Order. 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

- Wolverine Advanced Materials, LLC 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).
- b. Wolverine Advanced Materials, LLC shall satisfy \$30,408.72 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix A of this Order.
  - c. The net project costs of the SEP to Wolverine Advanced Materials, LLC shall not be less than the amount set forth in Paragraph D.2.b. If it is, Wolverine Advanced Materials, LLC shall pay the remaining amount in accordance with Paragraph D.2.a of this Order, unless otherwise agreed to by the Department. "Net project cost" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.
  - d. By signing this Order Wolverine Advanced Materials, LLC certifies that it has not commenced performance of the SEP.
  - e. Wolverine Advanced Materials, LLC acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by Wolverine Advanced Materials, LLC to a third party, shall not relieve Wolverine Advanced Materials, LLC of its responsibility to complete the SEP as described in this Order.
  - f. In the event it publicizes the SEP or the SEP results, Wolverine Advanced Materials, LLC shall state in a prominent manner that the project is part of a settlement of an enforcement action.
  - g. The Department has the sole discretion to:
    - i. Authorize any alternate, equivalent SEP proposed by the Facility; and
    - ii. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

- h. Should the Department determine that Wolverine Advanced Materials, LLC has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify Wolverine Advanced Materials, LLC in writing. Within 30 days of being notified, Wolverine Advanced Materials, LLC shall pay the amount specified in Paragraph D.2.b, above, as provided in Paragraph D.2.a, above.

### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Wolverine for good cause shown by Wolverine, 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, Wolverine 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. Wolverine 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. Wolverine declares that they have received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and they waive 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 Wolverine 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. Wolverine 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. Wolverine shall demonstrate that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. Wolverine 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.

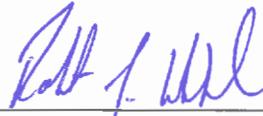
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Wolverine intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement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

9. This Order is binding on the parties hereto 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 Wolverine Advanced Materials, LLC.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Wolverine has completed all of the requirements of the Order;
  - b. Wolverine 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 Wolverine.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Wolverine 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 Wolverine 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 Wolverine 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 Wolverine to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Wolverine.
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 their signature below, Wolverine Advanced Materials, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 16<sup>th</sup> day of October, 2017.



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Robert J. Weld, Regional Director  
Department of Environmental Quality

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Wolverine Advanced Materials, LLC voluntarily agrees to the issuance of this Order.

Date: 10/12/17 By: Ken LaRue, \_\_\_\_\_  
Kenneth LaRue Global EHS Director  
Wolverine Advanced Materials, LLC

Commonwealth of Virginia

City/County of Montgomery

The foregoing document was signed and acknowledged before me this 12<sup>th</sup> day of

October, 2017, by Ken LaRue who is

Director of EHS-S of Wolverine Advanced Materials, LLC, on behalf of

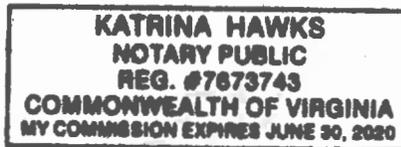
Wolverine Advanced Materials, LLC.

Katrina Hawks Katrina Hawks  
Notary Public

7673743  
Registration No.

My commission expires: June 30, 2020

Notary seal:



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**APPENDIX A**  
**WOLVERINE ADVANCED MATERIALS, LLC**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT (SEP)**

In accordance with Va. Code § 10.1-1186.2, Wolverine Advanced Materials, LLC shall perform the Supplemental Environmental Project (SEP) identified below in the manner specified in this Appendix. As used in this Order and Appendix, SEP means an environmentally beneficial project undertaken as partial settlement of a civil enforcement action and not otherwise required by law.

1. The SEP to be performed by Wolverine Advanced Materials, LLC is the installation of interstitial piping for the chemical feed lines for the aboveground storage tank farm located at the Cedar Run Plant.
2. The tank farm at the Cedar Run facility consists of 4 aboveground storage tanks (“ASTs”) that contain Toluene, MEK, DIBK, and MIBK. The proposed SEP shall involve the replacement of the current single walled piping that runs above ground from the tanks into the building with double-walled welded piping and will span approximately 60-feet from the tank farm extending northwest towards the edge of the building to the mixing room. The double wall piping will be designed to contain any leaks and provide leak detection with sensors in each section of pipe. This will allow for any leaks within the cavities to be detected and to be drained under control. The project will comply with the applicable provisions of 9 VAC 25-580-50; 150 and 170, in addition to STI SP001 and ASME B31.3 and B31.4.
3. The SEP shall be completed by **December 31, 2017**.
4. Wolverine Advanced Materials, LLC shall submit progress reports on the SEP on a monthly basis, due the 10th day of each month following the effective date of the Order.
5. Wolverine Advanced Materials, LLC shall submit a written final report on the SEP, verifying that the SEP has been completed in accordance with the terms of this Order, and certified either by a Certified Public Accountant or by a responsible corporate officer or owner. Wolverine Advanced Materials, LLC shall submit the final report and certification to the Department within **180** days from the effective date of the Order.
6. If the SEP has not or cannot be completed as described in the Order, Wolverine Advanced Materials, LLC shall notify DEQ in writing no later than **January 31, 2018**. Such notification shall include:
  - a. an alternate SEP proposal, or
  - b. payment of the amount specified in Paragraph D.2.b as described in Paragraph D.2.a.

7. Wolverine Advanced Materials, LLC hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.
8. Wolverine Advanced Materials, LLC shall submit to the Department written verification of the final overall and net project cost of the SEP in the form of a certified statement itemizing costs, invoices and proof of payment within **60** days of the project completion date. For the purposes of this submittal, net project costs can be either the actual, final net project costs or the projected net project costs if such projected net project costs statement is accompanied by a CPA certification or certification from Wolverine Advanced Materials, LLC Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.
9. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

G. Marvin Booth, III  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, VA 24019  
[marvin.booth@deq.virginia.gov](mailto:marvin.booth@deq.virginia.gov)