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Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO LONGWOOD ELASTOMERS, INC.

Registration No. 10429

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 Longwood Elastomers, Inc., 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 meanings 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 Longwood Elastomers, Inc., molded rubber products manufacturing facility located at 655 Fairview Road, Wytheville, Wythe County, 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. "PCE" means partial compliance evaluation by DEQ staff.

8. "Permit" means a New Source Review Permit to operate a molded rubber products manufacturing facility which was issued under the Air Pollution Control Law and the Regulations effective April 9, 2004.

9. "Longwood Elastomers, Inc." means Longwood Elastomers, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Longwood Elastomers, Inc. is a 'person' within the meaning of Va. Code § 10.1-1300.

10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution", means 9 VAC 5 chapters 10 through 80.

11. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, 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: Findings of Facts and Conclusions of Law

1. Longwood Elastomers, Inc. owns and operates the Facility in Wythe County, Virginia.

2. On October 21, 2019, DEQ staff met with representatives of Longwood Elastomers, Inc. to discuss findings from an emissions audit conducted as part of a planned permit revision application for the Facility.

3. On November 18, 2019, DEQ staff performed a PCE review of documentation submitted by the Facility on October 23, 2019, November 5, 2019, and November 14, 2019. Documentation demonstrated recordkeeping deficiencies concerning materials containing toxic compounds utilized at the Facility not being recorded during make-up formulations and clean up operations. Additionally, manufacturer

formulations changes resulted in inaccurate recordkeeping. The Facility reported failure to notify DEQ of utilization of additional materials containing air toxic compounds within the 15-day notification period.

4. Condition No. 16 (e)(f) & (g) of the Permit states, "The permittee shall maintain records of emission data and operating parameters as necessary to demonstrate compliance with the permit.... These records shall include, but are not limited to: Material Safety Data Sheets (MSDS) or other vendor information showing VOC content, toxic compound content, water content, and solids content for each coating, adhesive, lubricating solvent, or thinner used; Hourly (averaged monthly based on actual material usage and actual hours of usage), monthly and annual material consumption (in gallons or pounds) of each coating material, adhesive, thinner, lubricating solvent, or cleaning solution, used...; and Hourly, monthly and annual material balance including the throughput and emissions of VOC, PM and each toxic pollutant..."

5. Condition No. 27 of the Permit states, "The permittee may use additional materials containing toxic compounds, without obtaining a new permit, provided following conditions are met: a. Notification shall be given to the Southwest Regional Office. Such notification shall be made within fifteen 15 days after the use of additional toxic compounds..."

6. 9 VAC 5-50-50 F states. "The owner of a stationary source shall keep records as necessary to determine its emissions..."

7. On November 22, 2019, based on the review of the submitted records, the Department issued a Notice of Violation No. ASWRO001363 to Longwood Elastomers, Inc. for the alleged violation described in paragraph C(3) above.

8. On December 2, 2019, the Department received a telephone response to the NOV from representatives of the Facility.

9. On December 11, 2019, the Department met with representatives of the Facility regarding the November 22, 2019 NOV.

10. Based on the results of the October 22, 2019 meeting, the November 18, 2019 PCE, the December 2, 2019 response, and the December 11, 2019 meeting, the Board concludes that Longwood Elastomers, Inc. has violated has violated Condition 16 (e)(f) & (g) and 27 of the Permit and 9 VAC 5-50-50 as described in paragraph C(3) through C(6).

SECTION D: Agreement and Order

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

1. Perform the action described in Appendix A of this Order, and

2. Pay a civil charge of $15,471 within 30 days of the effective date of the Order in settlement of the violation cited in this Order.

Each 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

Longwood Elastomers, Inc. 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, Longwood Elastomers, Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Longwood Elastomers, Inc. for good cause shown by Longwood Elastomers, Inc. , 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 only those violations specifically identified in Section C of this Order and NOV No.ASWRO001363 dated November 22, 2019. This Order shall not preclude the Board or 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, Longwood Elastomers, Inc. admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Longwood Elastomers, Inc. 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. Longwood Elastomers, Inc. 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 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 or Director to modify, rewrite, amend, or enforce this Order.

6. Failure by Longwood Elastomers, Inc. 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. Longwood Elastomers, Inc. 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. Longwood Elastomers, Inc. shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Longwood Elastomers, Inc. shall notify 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 this Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of 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 listed above, which the parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of 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 Longwood Elastomers, Inc.. Nevertheless, Longwood Elastomers, Inc. 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 Longwood Elastomers, Inc. has completed all of the requirements of the Order.

    b. Longwood Elastomers, Inc. 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 Longwood Elastomers, Inc..

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

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, Longwood Elastomers, Inc. voluntarily agrees to the issuance of this Order.

And it is ORDERED this 21ST day of January, 2020

Jeffrey L. Hurst - Regional Director
Department of Environmental Quality

Longwood Elastomers, Inc. voluntarily agrees to the issuance of this Order.

Date: 1-16-2020 By: Darren J. Beatty

Darren Beatty, Vice President / General Manager
Longwood Elastomers, Inc. (a Wabtec Company)

State of PENNSYLVANIA

City/County of WESTMORELAND

The foregoing document was signed and acknowledged before me this 16 day of January, 2020 by Darren J. Beatty who is Vice President / Gen. Manager of Longwood Elastomers, Inc., on behalf of the corporation.

Marlene K. Skiavo
Notary Public

1273915
Registration No.

My commission expires: January 18, 2021

Notary Seal:

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
MARLENE K SKIAVO
Notary Public
HEMPFIELD TWP, WESTMORELAND COUNTY
My Commission Expires Jan 18, 2021

APPENDIX A
SCHEDULE OF COMPLIANCE

1. Longwood Elastomers, Inc.:

Shall submit an application for NSR permit modification within 90 days of the execution of this Order to include all chemicals being utilized at the Facility and current adhesive formulations.

2. Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), any and all documents or reports submitted to DEQ pursuant to this Consent Order, Longwood Elastomers, Inc., 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, Longwood Elastomers, Inc. shall submit all requirements of Appendix A of this Order to:

Crystal C. Bazyk
Enforcement and Air Compliance/Monitoring Manager
VA DEQ – SWRO
355-A Deadmore Street
Abingdon, VA 24210
(276) 676-4829
crystal.bazyk@deq.virginia.gov