



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Amy Thatcher Owens  
Regional Director

### VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

#### ORDER BY CONSENT ISSUED TO

**American Safety Razor Company  
VAD 085 124 196**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Section 10.1-1455 of the Code of Virginia between the Virginia Waste Management Board and American Safety Razor Company to resolve certain alleged violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management Regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Order" means this document, termed a Consent Order under the authority of the Virginia Waste Management Act.
3. "Waste Board" means the Virginia Waste Management Board, a permanent Citizens' Board of the Commonwealth of Virginia described in Va. Code § 10.1-1401 and § 10.1-1184.
4. "ASR" means American Safety Razor Company (VAD 085 124 196), a corporation registered and authorized to do business in Virginia that manufactures metal components of consumer products, located in Verona, Virginia.

5. "Site" or "Facility" means ASR's manufacturing facility and appurtenances, located at One Razor Blade Lane, Verona, Virginia.
6. "DEQ" means the Virginia Department of Environmental Quality, an independent administrative agency within the executive branch of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
7. "VRO" means DEQ's Valley Regional Office, located in Harrisonburg, Virginia.
8. "Director" means the Director of DEQ, whose powers and duties are described in Va. Code § 10.1-1185.
9. "VHWMR" means the Waste Board's Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.*, which incorporate text from Title 40 of the Code of Federal Regulations.
10. "CFR" means the Code of Federal Regulations.
11. "Subpart CC" means subpart CC of 40 CFR § 265, "Air Emission Standards for Tanks, Surface Impoundments, and Containers," specifically 40 CFR § 265.1080 *et seq.*
12. "EPA" means the United States Environmental Protection Agency.

### **SECTION C: Findings of Facts and Conclusions of Law**

1. On April 11, 2006, DEQ's VRO staff conducted a compliance evaluation inspection (the "Inspection") of the ASR Facility. DEQ staff observed the following factual observations and apparent violations:
  - A. ASR collected and stored hazardous waste from September 30, 2005 to January 6, 2006, a period greater than 90 days, in violation of 40 CFR 262.34(b), as referenced in 9 VAC 20-60-262 of the VHWMR.
  - B. In violation of 40 CFR 262.11, as referenced in 9 VAC 20-60-262 of the VHWMR, ASR failed to evaluate or label for hazardous waste characteristics the following: two 55-gallon drums, all of the waste chemicals in the discontinued laboratory facility, and spill residue in the <90-day storage containment basin from a previous spill. Additionally, ASR failed to characterize the ground water filters for Trichloroethylene (TCE).
  - C. ASR failed to date one 55-gallon drum located in the A-1 drum storage area in violation of 40 CFR 262.34(a)(2), as referenced in 9 VAC 20-60-262.

- D. ASR failed to mark the words "Hazardous Wastes" on containers located in six areas including the Hardening area, at the Paint Shop, the TCE filter change-out cart, the Universal Waste collection area, the "Hole" (computer equipment collection area), and the Tool and Die area, in violation of 40 CFR 262.34(c)(1)(ii) as referenced in 9 VAC 20-60-262.
- E. ASR maintained three Satellite Accumulation Areas (SAAs) that had greater than 55-gallon storage of waste outside the Distillation Building, Paint Shop, and Hardening Area, in violation of 40 CFR 262.34(c)(1) as referenced in 9 VAC 20-60-262.
- F. ASR was using the 600-gallon tank located outside the Distillation Building as a cooling tank for the still bottoms prior to adding the waste to drums for storage in the <90-day storage area and had not notified DEQ of the use of this tank for accumulation, in violation of 9 VAC 20-60-262.B.4 of the VHWMR. DEQ provided documentation to ASR during the Inspection regarding EPA's determination of when wastes leave a "treatment unit" and become regulated as hazardous waste, and that this unit meets the requirements of a <90-day storage tank.
- G. ASR also did not document inspections of the <90-day waste accumulation area during the weeks of October 27, 2005, November 24, 2005, January 5, 2006, and March 2, 2006 in violation of 40 CFR 265.174 as referenced in 9 VAC 20-60-265.
- H. ASR did not have documentation of the tank inspection as required by 40 CFR 265.195(c) as referenced in 9 VAC 20-60-265.
- I. In violation of Subpart CC, ASR has managed the 600-gallon still bottom cooling tank as an exempt tank associated with the distillation unit and as a satellite accumulation tank in violation of 40 CFR 265.1080 as referenced in 9 VAC 20-60-265 of the VHWMR. This tank meets the requirements of a <90-day accumulation tank and is not an integral part of the distillation units, pursuant to 40 CFR 265.1080 as referenced in 9 VAC 20-60-265 of the VHWMR, which requires that hazardous waste accumulation tanks be managed per the requirements of Subpart CC. DEQ provided ASR with EPA guidance papers which define when wastes leave the exempt distillation unit and become regulated, and thus it appears that this unit is subject to Subpart CC requirements. ASR failed to apply the Subpart CC requirements to this tank as required by 40 CFR 265.1080 and 265.1 as referenced in 9 VAC 20-60-265. ASR has not prepared a plan and schedule to conduct inspections and monitoring as required by 40 CFR 265.1089 as referenced in 9 VAC 20-60-265. Further, ASR has not evaluated the tank system in regards to the vapor pressure of the waste and resulting emissions controls as required by 40 CFR 265.1085(b), (c)(1), and (c)(4) as referenced in 9 VAC 20-60-265.
- J. Waste fluorescent bulbs were collected and stored outside of a box leaning against the wall in violation of 40 CFR 273.13(d) as referenced in 9 VAC 20-60-273, were stored in open containers in violation of 40 CFR 273.13(d) as referenced in 9 VAC 20-60-

273, were not labeled or marked with the type of waste in violation of 40 CFR 273.14 as referenced in 9 VAC 20-60-273, and were not dated in violation of 40 CFR 273.15 as referenced in 9 VAC 20-60-273.

K.

- a. ASR did not conduct annual training since July 2004 in violation of 40 CFR 265.16(c) as referenced in 9 VAC 20-60-265.
- b. ASR failed to maintain access to the spill control equipment and failed to note that this material was inaccessible in the inspection logs in violation of 40 CFR 265.33 as referenced in 9 VAC 20-60-265.
- c. ASR failed to maintain aisle space to the satellite accumulation drums at the Paint shop and in the Hardening area in violation of 40 CFR 265.35 as referenced in 9 VAC 20-60-265.
- d. ASR did not have a phone list of emergency numbers next to the telephone designated for the hazardous waste storage areas in the Emergency Fire Pump Room in violation of 40 CFR 265.32 as referenced in 9 VAC 20-60-265.
- e. ASR failed to submit a Contingency Plan meeting the requirements of 40 CFR 265.51 as referenced in 9 VAC 20-60-265 of the VHWMR. ASR has a Spill Prevention, Control and Countermeasures (SPCC) plan that has not been updated for hazardous waste criteria, but this section requires that each generator maintain a comprehensive Contingency Plan for unexpected releases of hazardous waste.
- f. ASR did not have a Contingency Plan that documented what types of events (regarding hazardous waste) that would trigger a response and when a response was needed in violation of 40 CFR 265.52 - .53 as referenced in 9 VAC 20-60-265, and this information had not been submitted to the local emergency officials as required by this section.
- g. ASR did not have an inspection plan for the spill control equipment, the evacuation plan was not clear, the Spill Control Plan was not clear regarding notification of local emergency agencies, and the existing plan did not define how to identify released materials, assess possible hazards due to releases, or describe procedures to prevent the spread of releases to other parts of the facility, in violation of 40 CFR 265.33, 52, and 56 as referenced in 9 VAC 20-60-265.
- h. ASR had not recently familiarized the local emergency personnel regarding hazardous waste issues at the facility, had not generated agreements with emergency response contractors to respond to hazardous waste release incidences, and had not submitted an updated Contingency Plan to the local hospital defining the potential types of injuries related to hazardous wastes at the facility in violation of 40 CFR 265.37 as referenced in 9 VAC 20-60-265.

L. ASR failed to meet requirements for managing used oil when it did not have documentation of its determination of "On-Spec" used oil in violation of 40 CFR 279.11 as referenced in 9 VAC 20-60-279; there was evidence that there had been oil spilled on the ground outside of the 10,000-gallon used oil secondary containment structure, and there were used/contaminated absorbent pads inside the secondary containment structure, in violation of 40 CFR 279.22 as referenced in 9 VAC 20-60-

279. While ASR does drain the used (but unpunctured) oil filters for 24 hours, 40 CFR 261.4(b)(13), as referenced in 9 VAC 20-60-261, requires that filters be punctured in addition to draining.

2. DEQ issued ASR a Notice of Violation (NOV) dated August 3, 2006, setting out the above findings and apparent violations observed by DEQ inspectors during the April 11, 2006 Facility Inspection.
3. On August 28, 2006, DEQ representatives met with Mr. Thomas N. Gay, Safety and Environmental Coordinator of ASR, to discuss the violations and any corrective actions taken to date by ASR since DEQ's inspection of the Facility. Mr. Gay submitted a letter to DEQ dated September 13, 2006 in formal, written response to each allegation, contesting many of them and indicating their corrective actions which ASR had agreed to take and actions ASR had yet to be complete but agreed to take, the latter of which are addressed in Appendix A of the Order.
4. On March 21, 2007, DEQ issued a draft of the Order to ASR. On May 8, 2007, representatives of DEQ and ASR met at DEQ-VRO to discuss the terms of the proposed Order.
5. On May 31, 2007, ASR submitted to DEQ-VRO a copy of its Combined RCRA Contingency Plan and Spill Prevention, Control and Countermeasures Plan ("Combined Plan") The Combined Plan was submitted to address the spill control plan and contingency plan deficiencies outlined in the August 3 2006 NOV and under Paragraph C.1.K of this Section of the Order. The Combined Plan is further addressed in Appendix A of the Order.
6. To avoid the expenditure of time and money on contesting the allegations and in the spirit of cooperation, without admitting the factual allegations or legal conclusions asserted, ASR has agreed to enter into an Order, this document, make payment in the form of civil charges, and has agreed to the corrective actions set out in Appendix A to this Order.

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

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders ASR, and ASR voluntarily agrees to perform the actions described in Appendix A of this Order.

Additionally, the Board orders ASR, and ASR voluntarily agrees, to pay a civil charge of **\$27,930** in settlement of the alleged violations cited in this Order. The civil charge shall be paid in four payments of **\$6,982.50** each in accordance with the following payment schedule:.

1. 1<sup>st</sup> payment due within **30 days** following the effective date of the Order;
2. 2<sup>nd</sup> payment due within **120 days** following the effective date of the Order;
3. 3<sup>rd</sup> payment due within **210 days** following the effective date of the Order; and,
4. 4<sup>th</sup> payment due within **300 days** following the effective date of the Order.

The effective date of the Order shall be the date the Order is signed by VRO's Regional Director, after required public notice. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

The payments shall include ASR's Federal ID number and shall state that they are being tendered in payment of the civil charge assessed under this Order.

**SECTION E: Administrative Provisions**

1. This Order addresses and resolves those violations specifically identified herein, including those matters addressed in the NOV issued on August 3, 2006 and listed in Section C above. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
2. For purposes of this Order and subsequent actions with respect to this Order, ASR admits the jurisdictional allegations in this Order, but does not admit the factual allegations or legal conclusions contained herein.
3. ASR declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Virginia Waste Management Act 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 and all other facts and conclusions of law, including any action taken by the Board to enforce this Order.
4. Failure by ASR to comply with any of the terms of this Order, except as provided in paragraph 6 below, 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 ASR's violations of the terms of this Order. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
5. 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.

6. ASR 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. ASR shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. ASR shall notify the VRO Regional Director in writing 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 VRO Regional Director within 24 hours of learning of any condition above, which ASR 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.

7. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
8. This Order shall become effective upon execution by both the Director or his designee and ASR. Notwithstanding the foregoing, ASR agrees to be bound by any compliance date which precedes the effective date of this Order.
9. This Order shall continue in effect until:
  - a. ASR petitions the Director or his designee to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order. The Director's determination that ASR has satisfied all the Requirements of the Order is a case decision within the meaning of the Virginia Administrative Process Act; or
  - b. The Director or the Board terminates this Order in his or its own discretion upon 30 days' written notice to ASR.
10. By appropriate signature below, ASR voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 7<sup>th</sup> day of December, 2007.



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

ASR voluntarily agrees to the issuance of this Order.

By: 

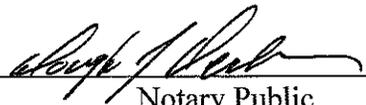
Date: SEPTEMBER 13, 2007

Commonwealth of Virginia

City/County of Augusta

The foregoing document was signed and acknowledged before me this 13<sup>th</sup> day of September, 2007, by Richard J. Gagliano, who is  
(name)

EVP Capital Operations of ASR on behalf of ASR.  
(title)

  
Notary Public

My commission expires: 12/31/2009

## APPENDIX A

### CORRECTIVE ACTION

1. Within thirty (30) days of the effective date of this Order (the date the Order is signed by the VRO Regional Director), ASR shall:
  - A. Label all containers which contain regulated hazardous waste located within the waste accumulation areas with the proper contents of such containers and submit photographs of same to DEQ. With respect to the discontinued laboratory identified in Item #2 of the NOV and Item #1.B of Section C of the Order, ASR shall conduct an inventory of all waste materials which remain in that laboratory and shall submit the inventory list to DEQ along with a report detailing the adequate storage and/or proper disposal of the waste materials which are hazardous. The referenced report shall include ASR's statement that the balance of the materials remaining in the laboratory (those which are not hazardous waste) are either not regulated hazardous wastes or are viable product materials.
  - B. Submit its characterization of the spill residue identified in Item #2 of the NOV and Item #1.B of Section C of the Order, and shall specifically state whether the walls and floor of the containment basin were cleaned of any hazardous waste residue. ASR shall submit to DEQ: a copy of the waste profile and the disposal manifest for the material disposed; photos of the contaminant area walls and floor; and shall address the characterization of the ground water TCE filters by submitting its waste characterization determination for this specific waste to DEQ.
  - C. Regarding <90-day storage area A-1, as referenced in Item #3 of the NOV and Item #1.C of Section C of the Order:
    - (i) discontinue use of the area as a satellite accumulation area; and,
    - (ii) for hazardous waste containers placed into the area, comply with the accumulation start date marking requirements for full and partially full containers, as applicable, pursuant to 40 CFR Part 262 Subpart C.
  - D. Submit photographs or other documentary evidence indicating that all hazardous waste storage containers located in the Tool and Dye area and TCE filter cart, as specified in Item #4 of the NOV and Item #1.D of the Order, are marked with the words "Hazardous Waste" or other appropriate identifier.
  - E. Submit the name and address of the outside vendor which is currently servicing the cleaning solvent units and the Materials Safety Data Sheet (MSDS) form for the solvents.
  - F. Provide documentation in writing to DEQ that the 600-gallon tank located outside the cooling area, as identified in Item #6 of the NOV and Item #1.I of the Order,

is no longer used for the collection of the still bottoms or has been removed. If the tank is to be used as a hazardous waste accumulation tank, ASR shall comply with Subpart CC requirements and provide appropriate documentation to DEQ.

- G. Provide a written explanation as to the method, inspection protocol, or operating plan that ASR is implementing to document weekly inspections of the Waste Accumulation Area identified in Item #7 of the NOV and Item #1.G of the Order.
  - H. Submit photographs of the storage areas and containers identified in Items #13 through #16 of the NOV and Item #1.J of the Order, demonstrating that fluorescent bulbs, and any other material classified as “universal waste,” have been properly labeled, stored, dated, and disposed of.
  - I. Submit to DEQ a list of all employees who manage hazardous waste along with documentation of the training and course content that was conducted, and the names of employees who attended.
  - J. Submit documentation in the form of photos and location diagram, of the new storage areas for spill control equipment.
  - K. Submit to DEQ a copy of a posted list of emergency contact telephone numbers, along with a photograph showing the location of the posted list. This information must be included in ASR’s Combined Plan. See Item 2. below.
  - L. Provide DEQ with a description of its spill control equipment inspection procedure, along with a copy of recent inspection logs.
2. ASR shall respond in writing **within 30 working days** of receiving any comments from DEQ on the Combined Plan until such time DEQ approves the document(s) in writing.
  3. **Within 15 working days** of DEQ’s written approval of the Combined Plan, ASR shall submit confirmation to DEQ that a copy of the Combined Plan has been submitted to appropriate emergency response authorities, including the local fire department, emergency response contractor, and local hospital.