



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
ATLANTIC INDUSTRIAL SERVICES INC.
EPA ID No. VAD98055577**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Atlantic Industrial Services Inc., for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

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

1. "Atlantic" means Atlantic Industrial Services Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Atlantic is a "person" within the meaning of Va. Code § 10.1-1400.
2. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
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. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Site" or "Facility" means the Atlantic Industrial Services Inc. petroleum recycling, tank cleaning contracting, and hazardous waste transporting facility located at 13331 Ramblewood Drive in Chester, Virginia.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "VHWMR" or "Regulations" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
14. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. Atlantic owns and operates a petroleum recycling, tank cleaning contracting, and hazardous waste transporting facility in Chester, Virginia. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. Atlantic submitted a RCRA Subtitle C Site Identification Form (received December 14, 1981) that gave notice of regulated waste activity at the Facility as a transporter of hazardous waste. Atlantic was issued EPA ID No. VAD980555577 for the Facility.

3. Atlantic transports from the Facility various drums, barrels, and other packages containing “hazardous waste”, as the term is defined in 40 CFR §261.3, to permitted hazardous waste treatment, storage and disposal facilities.
4. Atlantic is a “transporter” of hazardous waste, as that term is defined in 40 CFR §260.10.
5. The Facility’s hazardous waste transporter permit VAD9805555776 (Permit) was issued on April 9, 1999 and expired April 9, 2009. The Department is not required to send notification to permittees that their permit is about to expire nor is it the standard procedure to send such notification. The Department did not send notification to Atlantic about the upcoming permit expiration. Atlantic did not realize that the Permit expired until January 6, 2010, at which time it immediately ceased transporting hazardous waste. The last shipment of hazardous waste was on January 5, 2010. Atlantic had not reapplied for a new permit by April 9, 2009.
6. 9 VAC 20-60-450(D) states, “The term of the transporter permit shall be 10 years. A permit shall remain in effect until one of more of the following conditions are met:...5. Upon the expiration date of the permit, unless reapplication for new permit has been received by the department 30 days prior to such a date.”
7. On January 8, 2010, the Department received an application from Atlantic to renew its Permit. Atlantic also notified the Department about the continued operations at the Facility from the time that its Permit was expired until January 6, 2010, when it became aware of the situation.
8. On February 1, 2010, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:
 - a. Atlantic transported approximately 104 shipments of hazardous waste originating from Virginia with an expired Permit from April 10, 2009 through January 5, 2010. 9 VAC 20-60-420(E) requires that all transporters of hazardous waste shipments originating or terminating or both in the Commonwealth obtain a permit from the director in accordance with 9 VAC 20-60-450.
9. On February 9, 2010, based on the inspection and follow-up information, the Department issued Notice of Violation No. 2010-02-PRO-603 to Atlantic for the violations described in C8 above.
10. On February 17, 2010, the Department re-issued the Permit to Atlantic.
11. Department staff spoke with a representative of Atlantic to discuss the violations in March 2010.

12. Based on the results of the February 1, 2010 inspection, the Board concludes that Atlantic has violated 9 VAC 20-60-420(E), as noted above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Atlantic, and Atlantic agrees to pay a civil charge of **\$3,500** 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

Atlantic shall include its Federal Employer Identification Number (FEIN) [(xx-xxxxxxx)] 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 Atlantic for good cause shown by Atlantic, 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, Atlantic admits to 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. Atlantic 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. Atlantic declares it has received fair and due process under the Administrative Process Act 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 action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Atlantic 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. Atlantic 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. Atlantic shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Atlantic 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 Atlantic 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 Atlantic.
11. This Order shall continue in effect until:
 - a. Atlantic 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 Atlantic.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Atlantic 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 Atlantic 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 Atlantic 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 Atlantic to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Atlantic.
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, Atlantic Industrial Services Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 6th day of OCTOBER, 2010.



Michael P. Murphy, Regional Director
Department of Environmental Quality

Atlantic Industrial Services Inc. voluntarily agrees to the issuance of this Order.

Date: 08/20/10 By: [Signature] RS Lloyd, Vice President
(Person) (Title)
Atlantic Industrial Services Inc.

Commonwealth of Virginia

City/County of Hanover

The foregoing document was signed and acknowledged before me this 20th day of August, 2010, by Richard S Lloyd who is vice President of Atlantic Industrial Services Inc., on behalf of the corporation.

[Signature]
Notary Public

144323
Registration No.

My commission expires: May 31, 2011

Notary seal:

