



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

Amy Thatcher Owens  
Regional Director

### VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO BRIDGEWATER COLLEGE EPA ID No. VAD982674368

#### **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 Bridgewater College, regarding the Bridgewater College facility 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. "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.
2. "Bridgewater" means Bridgewater College, a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Bridgewater is a "person" within the meaning of Va. Code § 10.1-1400.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "CESQG" means a conditionally exempt small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-81-10.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Facility" or "Site" means the Bridgewater facility located at 402 East College Street in Bridgewater, Virginia.
8. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
9. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
10. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
13. "RCRA" means the Resource Conservation and Recovery Act, enacted in 1976.
14. "Regulations" or "VHWMR" 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 effective 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.
15. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).
16. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
17. "Va. Code" means the Code of Virginia (1950), as amended.

18. "VAC" means the Virginia Administrative Code.
19. "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.
20. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

**SECTION C: Findings of Fact and Conclusions of Law**

1. Bridgewater College (Bridgewater) owns and operates a residential college (Facility) located in Bridgewater, Virginia. The facility is classified as a CESQG of hazardous waste in EPA's database.
2. Bridgewater submitted a RCRA Subtitle C Site Identification Form, received April 10, 1990, that gave notice of regulated waste activity at the Facility as a SQG of hazardous waste. Bridgewater was issued EPA ID No. VAD982674368 for the Facility. In a subsequent form, received September 24, 1998, Bridgewater gave notice as a CESQG of hazardous waste at the Facility.
3. At the Facility, Bridgewater generates the following solid wastes which are also hazardous wastes. Each waste is listed with associated waste codes as described in 40 CFR § 261.24 and 261.31. Hazardous wastes, including those listed below, are accumulated in containers at the Facility after generation.

Mixed Waste Amines - D001, D002

Mixed Corrosive Liquids- D001, D002, D007, D008, D009, D011

Mixed Flammable Liquids – D001, D011, D027, D038, F002, F003, F005, U072, U165

Mixed Waste Liquids – D004, D005, D006, D007, D008, D010

Waste Mercury – D009

Toxic Liquids – P018, P028, P105

4. On January 22, 2015, DEQ staff conducted a compliance inspection of Bridgewater College in Bridgewater, Virginia. Staff also reviewed documents provided to DEQ during the course of the inspection. The following describe the staff's factual observations and identify the applicable legal requirements:
  - a. Bridgewater has not characterized waste located in the Art department, Housekeeping, or in the Maintenance Center.  
  
40 CFR 262.11 as referenced in 9 VAC 20-60-262 of the VHWMR requires that a person who generates a solid waste must determine if that waste is a hazardous waste.
  - b. Bridgewater has not characterized its fluorescent bulbs as a universal waste or as a hazardous waste. Bridgewater College representatives stated that waste bulbs

are sent to the local landfill. Since fluorescent bulbs were not being collected for proper disposal, they were not containerized or labeled properly.

40 CFR 261.5(g)(3) as referenced in 9 VAC 20-60-261 of the VHWMR states that a conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility.

40 CFR 273.13(d)(1) as referenced in 9 VAC 20-60-273 of the VHWMR requires that containers and packages that contain Universal waste lamps must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

40 CFR 273.14(e) as referenced in 9 VAC 20-60-273 of the VHWMR requires that the containers be labeled with the words "Universal Waste Lamps" or "Waste Lamps."

40 CFR 273.15(c) as referenced in 9 VAC 20-60-273 of the VHWMR requires that a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

- c. On September 15, 2010, Bridgewater generated more than 2.5 lbs (1.13 kg) of P-listed acute hazardous waste and had not managed the waste as a Large Quantity Generator.

40 CFR 261.5(e)(1) as referenced in 9 VAC 20-60-261 of the VHWMR states that if a generator generates acute hazardous waste in a total of one kilogram in a calendar month all quantities are subject to full regulation.

- d. Bridgewater generated LQG amounts of acute hazardous waste and has not paid an annual fee or notified DEQ. In addition, Bridgewater had not notified DEQ of the location of hazardous waste accumulation areas.

9 VAC 20-60-1283(E) of the VHWMR requires that each episodic large quantity generator of hazardous waste shall be assessed an annual fee as shown in 9 VAC 20-60-1285 F to be paid in accordance with 9VAC 20-60-1280.

9 VAC 20-60-315(D) of the VHWMR requires that anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record.

9 VAC 20-60-262(B)(4) of the VHWMR requires that large quantity generators of hazardous waste notify DEQ of the location of hazardous waste accumulation areas.

5. On March 27, 2015, DEQ issued Notice of Violation (NOV) No. 15-3-VRO-006 to Bridgewater for the violations listed in paragraph C(4), above.
6. Based on the results of the January 22, 2015 inspection, the Board concludes that Bridgewater has violated 40 CFR 262.11, 40 CFR 261.5(g)(3), 40 CFR 273.13(d)(1), 40 CFR 273.14(e), 40 CFR 273.15(c), 40 CFR 261.5(e)(1), 9 VAC 20-60-1283(E), 9 VAC 20-60-315(D) and 9 VAC 20-60-262(B)(4) as described in paragraph C(4), above.
7. Bridgewater submitted documentation on April 29, 2015 that verifies that the violations described in paragraph C(4.a and 4.b), above, have been corrected.
8. In Order to complete its return to compliance, DEQ staff and representatives of Bridgewater 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 § 10.1-1455, the Board orders Bridgewater, and Bridgewater agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$13,125.00** 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

Bridgewater shall include its Federal Employer Identification Number 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, Bridgewater shall be liable for attorneys' fees of 30% of the amount outstanding.

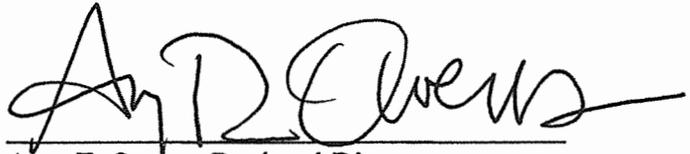
#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Bridgewater for good cause shown by Bridgewater, 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 and in NOV No. 15-3-VRO-006 dated March 27, 2015. 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, Bridgewater admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Bridgewater 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. Bridgewater 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 Bridgewater 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. Bridgewater 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. Bridgewater shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Bridgewater 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

15. By its signature below, Bridgewater voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24<sup>th</sup> day of August, 2015.



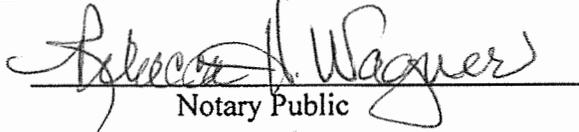
Amy T. Owens, Regional Director  
Department of Environmental Quality

Bridgewater College voluntarily agrees to the issuance of this Order.

Date: 15 July 2015 By: David W. Bushman, President  
David W. Bushman President  
Bridgewater College

Commonwealth of Virginia  
City/County of Rockingham

The foregoing document was signed and acknowledged before me this 15<sup>th</sup> day of July, 2015, by David W. Bushman who is President of Bridgewater College, on behalf of the company.



Notary Public

7595404

Registration No.

My commission expires: 9-30-18

Notary seal:



- 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 parties intend 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 Bridgewater. Nevertheless, Bridgewater 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 Bridgewater has completed all of the requirements of the Order;
  - b. Bridgewater 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 Bridgewater.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Bridgewater 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 Bridgewater 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 Bridgewater certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind Bridgewater to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Bridgewater.
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.

**APPENDIX A  
SCHEDULE OF COMPLIANCE**

**1. Hazardous Waste Management Plan**

Within 180 days of the effective date of this Order, Bridgewater shall submit a draft Hazardous Waste Management Plan to DEQ for review. This Plan shall include identification of key personnel and their responsibilities in the Facility's waste management program, minimization of waste, proper handling and storage of wastes, characterizing new wastes and employee training. Bridgewater shall submit the final Plan within 30 days of receiving comments from DEQ on the draft Plan.

**2. Training**

- a) Within 30 days of the effective date of this Order, Bridgewater shall provide basic RCRA training to affected employees.
- b) Within 30 days of completion of the final Hazardous Waste Management Plan, Bridgewater shall provide training to all affected Facility personnel on compliance with the Facility's Plan and the hazardous waste regulations.
- c) Within 10 days after each of the training sessions specified above, Bridgewater shall certify, in writing, to the Department that the training was provided to Facility personnel.

**3. LQG Fee Payment**

Within 30 days of the effective date of this Order, Bridgewater shall pay the LQG annual fee of \$1,000.00 required by 9 VAC 20-60-1283 (E) for the year 2010. Payment shall be submitted to:

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

**4. Contact**

Unless otherwise specified in this Order, Bridgewater shall submit all requirements of Appendix A of this Order to:

Karen Gail Hensley, P.E.  
Enforcement Team Leader  
VA DEQ –Valley Regional Office  
4411 Early Road  
P.O. Box 3000

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Bridgewater College; EPA ID. No. VAD982674368  
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Harrisonburg, VA 22801  
(540) 574-7821 - phone  
(540) 574-7878 - fax  
karen.hensley@deq.virginia.gov

RECEIVED  
DEQ - Valley

JUL 16 2015

To: \_\_\_\_\_  
FILE: \_\_\_\_\_