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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT

ISSUED TO

Reline America, Inc.

FOR THE

**Reline America, Inc. Facility at 116 Battleground Avenue, Saltville, VA
EPA ID No. VAR000002352**

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 Reline America, Inc., regarding the Reline America, Inc. Facility located at 116 Battleground Avenue, Saltville, Virginia, 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. "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.
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" means the Reline America, Inc. Facility located at 116 Battleground Avenue, in Saltville, Virginia.
7. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
8. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
9. "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).
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
12. "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 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.
13. "Reline" or "Reline America" means Reline America, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Reline America, Inc. is a "person" within the meaning of Va. Code § 10.1-1400.
14. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
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. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.
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.

SECTION C: Findings of Fact and Conclusions of Law

1. Reline America owns and operates the Facility in Saltville, Virginia. The Facility operates as a resin liner manufacturing plant (NAICS Code 32610, Plastics Products Manufacturing). Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. Reline America submitted a RCRA Subtitle C Site Identification Form to DEQ March 8, 2007 that gave notice of regulated waste activity at the Facility as a CESQG of hazardous waste. Reline America was issued EPA ID No. VAR000002352 for the Facility.
3. At the Facility, Reline America generates at least two types of non-acute hazardous waste. Waste resin solution is a hazardous waste, an ignitable characteristic waste (D001) as described in 40 CFR § 261.21(a). A second waste produced, a waste flammable liquid consisting of a line flush solution containing acetone and methanol, is a listed hazardous waste (D001, F003) as described in 40 CFR § 261.31. These hazardous wastes are accumulated in containers at the Facility after each is generated.
4. On February 8, 2012, DEQ SWRO received an electronic tip/complaint indicating that containers of hazardous wastes were being stored longer than 90 days at the Facility. On February 15, 2012, 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. Numerous 55-gallon containers holding hazardous waste were observed being stored in an accumulation area located on a concrete floor inside a building at the Facility. DEQ staff observed that containers in the accumulation area were labeled "hazardous waste", but were not marked with accumulation start dates.
 - b. DEQ and Facility staff estimated forty eight 55-gallon drums holding hazardous wastes were present in the accumulation area. Facility staff stated these 48 containers holding hazardous wastes had been accumulated onsite since hazardous wastes were last manifested and shipped offsite for disposal. Review of hazardous waste manifests from January, 2011 thru February 15, 2012 indicated that Reline America last manifested and shipped hazardous wastes for disposal on June 6, 2011.

- c. Review of onsite records and hazardous waste manifests beginning January, 2011 indicate Reline America was and is currently operating as a LQG of hazardous waste. Review of DEQ Facility files and the RCRAInfo Database indicates that Reline America last notified DEQ on March 8, 2007, in writing, that it was operating as a CESQG at its Saltville, Virginia Facility.
5. 40 CFR § 262.34(a)(2) states that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status provided the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
6. 40 CFR § 262.34(a) states a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status provided the waste is placed in containers, tanks, on drip pads, or in containment buildings and the generator complies with other applicable requirements.
7. 9 VAC 20-60-315(D) states that anyone who becomes a LQG shall notify the department in writing immediately of this change in status and document the change in the operating record.
8. On February 22, 2012, based on the inspection and follow-up information, the Department issued Notice of Violation No. NOV-001-0212-HW to Reline America for the violations described in paragraphs C(4)(a) through C(4)(c), above.
9. On March 8, 2012, Department staff met with representatives of Reline America to discuss the violations. At that meeting, Department staff requested that Reline America submit a written response.
10. On March 30, 2012, Reline America submitted a written response to the NOV. Reline states in that letter that the Facility is now in full compliance with the requirement that hazardous waste storage containers be marked with accumulation start dates, and that any future storage containers will be appropriately labeled with accumulation start dates. Reline also states in that letter that all containers of excess resin have been properly disposed of. In addition, Reline included documentation (EPA Form 8700-12), making notification as a LQG.
11. Based on the results of the February 15, 2012 inspection, the March 8, 2012 meeting, and documentation submitted on March 30, 2012, the Board concludes that Reline America has violated 40 CFR § 262.34(a)(2), 40 CFR § 262.34(a) and 9 VAC 20-60-315(D), as described in paragraphs C(5) through C(7), above.
12. Reline America submitted documentation on April 12, 2012 (a statement and a copy of the hazardous waste manifest dated April 12, 2012) indicating that the remaining 44

(forty four) containers, containing cleaning solvents mixed with resin from flushing of lines, had been shipped that day for proper disposal.

13. With submittal of the hazardous waste manifest noted in Item 12, the last outstanding item has been addressed and the violations described in paragraphs C(4)(a) through C(4)(c) above have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Reline America, Inc., and Reline America, Inc. agrees to pay a civil charge of \$9,940.00 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

Reline America, Inc. shall include its Federal Employer Identification Number (FEIN), 20-2706540, 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 Reline America for good cause shown by Reline America, 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, Reline America admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Reline America 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. Reline America 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 Reline America 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. Reline America 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. Reline America shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Reline America 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 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 Reline America.

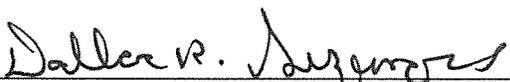
11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after Reline America has completed all of the requirements of the Order;
- b. Reline America 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 Reline America.

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

And it is so ORDERED this 5th day of September, 2012.



Dallas R. Sizemore, Regional Director
Department of Environmental Quality

Reline America, Inc. voluntarily agrees to the issuance of this Order.

Date: 7-20-12 By: [Signature], GENERAL MANAGER
(Person) (Title)
Reline America, Inc.

Commonwealth of Virginia
City/County of Washington

The foregoing document was signed and acknowledged before me this 20 day of July, 2012, by Jay Allen Lanz who is General Manager of Reline America, Inc., on behalf of the corporation.

Carol M. Thomas
Notary Public
355967
Registration No.

My commission expires: 5-31-2013

Notary seal:

