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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
INDUSTRIAL PLATING CORPORATION
FOR THE
INDUSTRIAL PLATING CORPORATION FACILITY
LOCATED IN LYNCHBURG, VIRGINIA
EPA ID No. VAR000504340**

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 Industrial Plating Corporation, regarding its facility in Lynchburg, 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. "BRRO" means the Blue Ridge Regional Office of DEQ, with offices located in Lynchburg and Roanoke, Virginia.
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" or "Site" means the Industrial Plating Corporation Facility located at 318 Crowell Lane in Lynchburg, 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. "IPC" means Industrial Plating Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. IPC is a "person" within the meaning of Va. Code § 10.1-1400.
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. "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.
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. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.

18. "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. IPC owns and operates the Facility in Lynchburg Virginia. The Facility performs aluminum anodizing, nickel and zinc plating, black oxide anodizing, and electro-polishing. A chemical conversion coating process is also used at the facility. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. IPC submitted a RCRA Subtitle C Site Identification Form (received 10/11/2002) that gave notice of regulated waste activity at the Facility as an SQG of hazardous waste. IPC was issued EPA ID No. VAR000504340 for the Facility.
3. At the Facility, IPC generates nickel, chromium, and sulfuric acid from the electroplating baths, rinse bath wastewater which is a mixture of water plus dragout, evaporator waste [D002], anodizing line waste (Sulfuric acid [D002]), soap waste (Sodium Hydroxide [D002]), zinc cleaner (Muriatic Acid [D002]), and particulate filters [F006]. This hazardous waste is accumulated in containers at the Facility after its generation.
4. On January 26, 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.
5. According to hazardous waste manifest number 004471222, the Facility shipped approximately 15,800 lbs. (1,975 gallons weighing 8 lbs. per gallon) to Cycle Chem, Inc. on 06/09/2008. According to hazardous waste manifest number 006328375, the Facility shipped 14,500 lbs. of hazardous waste to Envirite of Pennsylvania, Inc. on 11/04/2009. On each of those dates, the Facility had accumulated in excess of 6,000 kilograms (13,227 lbs.) of hazardous waste. 40 CFR 262.34 (d)(1) allows a small quantity generator (SQG) to accumulate hazardous waste on-site for 180 days (or 270 days if transporting 200 miles or more) or less without a permit provide that the quantity of waste accumulated on-site never exceeds 6,000 kilograms (13,227 lbs.).
6. The Facility had three off-site shipments of hazardous waste since the previous DEQ Compliance Assistance Visit (CAV) on 05/06/2008. The shipment dates were 06/09/2008, 11/04/2009, and 06/03/2011. The time between the 6/09/2008 shipment and the 11/04/2009 shipment was 513 days. The time between the 11/04/2009 shipment and the 6/03/2011 shipment was 576 days. 40 CFR 262.34(e) requires that a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without

having interim status provided that he complies with the requirements of paragraph (d) of 40 CFR 262.34.

7. By accumulating in excess of the 6,000 kg allowable for SQG, and by accumulating hazardous waste in excess of 270 days, the Facility was no longer excluded from the requirement to obtain a permit for hazardous waste storage provided by the exclusion listed in 40 CFR 270.1(c)(2)(i). Without the exclusion, the Facility was required to obtain a permit for storage of hazardous waste (in excess of 270 days and in excess of 6,000 kg) per the requirements of 40 CFR 270.1(c).
8. The Facility had one 55-gallon drum and two 5-gallon mop buckets accumulating spent filters that were not labeled with the words "Hazardous Waste," or the accumulation start date. There were four 275-gallon tote containers of hazardous waste that were either not labeled with the words "Hazardous Waste," or the accumulation start date, or not labeled with both. 40 CFR 262.34(d)(4) requires that a small quantity generator may accumulate hazardous waste on-site for 180 days (or 270 days) or less without a permit provide that the generator complies with the requirements of paragraphs (a)(2) and (a)(3) of 40 CFR 262.34. Paragraph (a)(2) states that the date upon which each period of accumulation begins is to be clearly marked and visible for inspection on each container. Paragraph (a)(3) states that while being accumulated on-site, each container must be labeled with the words, "Hazardous Waste."
9. The Facility was accumulating spent filters in one 55-gallon drum without keeping the drum closed when not adding or removing waste. The Facility was also accumulating spent filters in two 5-gallon mop buckets which are not equipped with lids and designed to be closed. 40 CFR 262.34 (d)(2), which references 40 CFR 265.173(a), requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
10. The Facility was not conducting weekly inspections of the containers of hazardous waste for leaks or corrosion. 40 CFR 265.174 requires that generators must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.
11. DEQ staff inspected the Facility on February 2, 2012 and verified that the violations described in paragraphs C(5) through C(10), above, have been corrected.
12. On April 5, 2012, based on the January 26, 2012 inspection, the Department issued Notice of Violation No. NOV-12-02-BRRO-L-001 to IPC for the violations described in paragraphs C(5) through C(10), above.
13. Based on the results of the January 26, 2012 inspection, the Board concludes that IPC has violated 40 CFR 262.34 (d)(1), 40 CFR 262.34(e), 40 CFR 270.1(c), 40 CFR 262.34(d)(4), which references 40 CFR 262.34, 40 CFR 262.34 (d)(2), which references 40 CFR 265.173(a), and 40 CFR 265.174 as described in paragraphs C(5) through C(10), above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders IPC, and IPC agrees to pay a civil charge of **\$18,900** 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

IPC shall include its Federal Employer Identification Number (FEIN) 54-1750993 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 IPC for good cause shown by IPC, 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, IPC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. IPC 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. IPC 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 IPC 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. IPC 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. IPC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. IPC 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.

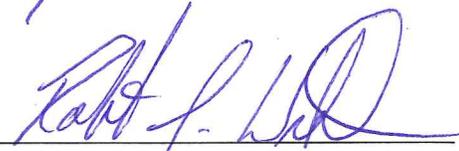
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement 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 IPC.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after IPC has completed all of the requirements of the Order;

- b. IPC 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 IPC.

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

And it is so ORDERED this 26th day of July, 2012.



Robert J. Weld, Regional Director
Department of Environmental Quality

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Industrial Plating Corporation voluntarily agrees to the issuance of this Order.

Date: 6/15/12 By: Steven W. Shockley, President
Steven W. Shockley
Industrial Plating Corporation

Commonwealth of Virginia
City/County of Campbell

The foregoing document was signed and acknowledged before me this 15 day of JUNE, 2012, by Steven W. Shockley who is President of Industrial Plating Corporation, on behalf of the corporation.

Denise Horsley
Notary Public

351036
Registration No.

My commission expires: 3-31-16

Notary seal:

