



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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Secretary of Natural Resources

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Director

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

Meeks Disposal Corporation

Permit-By-Rule No. 541

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§10.1-1182 *et seq.*, 10.1-1402, 10.1-1405, and 10.1-1455 between the Virginia Waste Management Board and Meeks Disposal Corporation for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

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

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
7. "Order" means this document, also known as a consent order.
8. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.

9. "Regulations" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Meeks Disposal Corporation ("Meeks") owns and operates a location ("Facility") at 1328 Cavalier Boulevard in Chesapeake, Virginia. Meeks has an air permit for a concrete crushing operation at the Facility under air registration #61505.
2. On January 28, 2008, Meeks submitted to DEQ a notice of intent to initiate the permit application process to operate a Material Recovery Facility ("MRF") at the Facility under a "Permit-By-Rule" ("PBR"). The application was received by DEQ on February 21, 2008.
3. According to Meeks, prior to February 6, 2008, Meeks submitted its request for inclusion to the regional Solid Waste Management Plan ("SWMP") as administered by the Southeastern Public Service Authority ("SPSA"), the regional waste management authority. Also according to Meeks, on February 6, 2008, SPSA directed Meeks to submit the information required by 9 VAC 20-130-175.A.2 (name, address, telephone number, location of facility), which Meeks submitted on February 13, 2008.
4. On March 5, 2008, DEQ permitting staff issued a Notice of Deficiency Letter to Meeks that the PBR application submitted was incomplete. In a subsequent letter dated April 8, 2008, DEQ permitting listed two remaining required items needed to complete the application: 1) a professional engineer's certification that the facility meets design and construction standards; and 2) notification that the facility has been incorporated into [or deemed consistent with] the SWMP.
5. According to Meeks, on March 11, 2008, SPSA acknowledged that Meeks appeared to have submitted all information required for SPSA review of adding Meeks to the SWMP.
4. On May 9, 2008, DEQ compliance staff conducted a site inspection and document review at the Facility. During the inspection, DEQ compliance staff observed MRF activities at the Facility: the unloading, processing and transfer of solid waste consisting of construction and demolition debris, which in turn were size-reduced by a shredder for landfill disposal. In a discussion with DEQ staff during the inspection, Meeks personnel stated that the observed MRF activities had begun on April 30, 2008 and that from April 30, 2008 until May 9, 2008, 484.86 tons of solid waste had been processed at the Facility. At the time of the inspection, Meeks had not received authorization from DEQ to operate a MRF.
5. Virginia Code §10.1-1408.1 and 9 VAC 20-80-90 of the Regulations requires any person who treats, stores or disposes of non-hazardous solid waste to obtain a permit from the Director. Meeks violated the Regulations by failing to obtain authorization from the Director to operate a MRF prior to commencing MRF activities at the Facility.

6. Immediately following the May 9, 2008 inspection, Meeks stopped MRF activities and disposed of all waste from the operation properly.
7. On May 14, 2008, DEQ received Meeks' professional engineer's certification that the Facility meets design and construction standards.
8. On May 22, 2008, DEQ issued Meeks a Notice of Violation for the operation of a MRF without a permit.
9. On May 29, 2008, DEQ was notified that SPSA had approved Meeks' inclusion in the SWMP and thus had authorized Meeks' MRF activities at the Facility to be incorporated into the regional SWMP. On May 30, 2008, DEQ acknowledged the incorporation of Meeks MRF activities at the Facility into the regional SWMP.
10. On June 2, 2008, DEQ acknowledged that Meeks met the requirements to operate a MRF at the Facility under PBR #541.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders Meeks, and Meeks voluntarily agrees, to pay a civil charge of \$4,200.00 within 30 days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," and shall be sent to:

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

Either on a transmittal letter or as a notation on the check, Meeks shall indicate that this submission of Payment is pursuant to this Order, which shall include Meeks's Federal Identification Number.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Meeks for good cause shown by Meeks or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Meeks by DEQ on May 22, 2008. 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.

3. For the purposes of this Order and subsequent actions with respect to this Order, Meeks admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Meeks 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. Meeks 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 action taken by the Board to enforce this Order.
6. Failure by Meeks 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. Meeks 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. Meeks shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Meeks shall notify the TRO 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 TRO Regional Director within 24 hours 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, 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 Meeks. Notwithstanding the foregoing, Meeks agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Meeks. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Meeks from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Meeks voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 9th day of March, 2008. ^{9th}

Francis L. Daniel
Francis L. Daniel

Meeks Disposal Corporation voluntarily agrees to the issuance of this Order.

By: [Signature]
Date: 12-16-08

Commonwealth of Virginia
City/County of Chesapeake

The foregoing document was signed and acknowledged before me this 16th day of December, 2008, by John Paul Wright, who is
(month) (name)

Vice President of Meeks Disposal Corporation, on behalf of Meeks Disposal Corporation.
(title)

[Signature]
Notary Public

My commission expires: 7/31/09

Registration # 356750