



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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Secretary of Natural Resources

David K. Paylor  
Director

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Regional Director

## VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

### ORDER BY CONSENT ISSUED TO

**STOWE WOODWARD**  
(VAD # 070 360 086)

#### SECTION A: Purpose

This is a Consent Order issued under the authority of Sections 10.1-1455 of the Code of Virginia between the Virginia Waste Management Board and Stowe Woodward to resolve certain alleged violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management Regulations.

#### SECTION B: Definitions

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

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Order" means this document, termed a Consent Order under the authority of the Virginia Waste Management Act.
3. "Board" means the Virginia Waste Management Board, a permanent Citizens' Board of the Commonwealth of Virginia described in Va. Code § 10.1-1401 and § 10.1-1184.
4. "Stowe Woodward" means Stowe Woodward, a Xerium Technologies, Inc. Company, a company a company registered and authorized to do business in Virginia.
5. "Site" or "Facility" means Stowe Woodward's manufacturing facility, located at 8207 Valley Pike, Middletown, Virginia.

6. "DEQ" means the Virginia Department of Environmental Quality, an independent administrative agency within the executive branch of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
7. "VRO" means DEQ's Valley Regional Office, located in Harrisonburg, Virginia.
8. "Director" means the Director of DEQ, whose powers and duties are described in Va. Code § 10.1-1185.
9. "VHWMR" means the Waste Board's Hazardous Waste Management Regulations, 9 VAC 20-60-10 *et seq.*, which incorporates text from Title 40 of the Code of Federal Regulations.
10. "CFR" means the Code of Federal Regulations.

### **SECTION C: Findings of Facts and Conclusions of Law**

1. The Facility (VAD # 070 360 086) is a large quantity generator (LQG) of Hazardous Waste and involved in, *inter alia*, manufacturing roll coverings for the paper and textile industries, located in Middletown, Virginia.
2. On August 24, 2006 and August 31, 2006, VRO staff conducted compliance evaluation inspections of the Site
3. A records review during those inspections revealed that Stowe Woodward violated the VHWMR by failing to: (a) conduct weekly inspections of the Waste Accumulation Area as required by 40 CFR 265.174 (9 VAC 20-60-265); (b) maintain job descriptions specifying hazardous waste activities as required by 40 CFR 265.16(b)(2) (9 VAC 20-60-265); (c) maintain access to the spill control equipment and conduct inspections of this equipment as required by 40 CFR 265.33 (9 VAC 20-60-265); (d) maintain emergency numbers posted by the emergency phone as required by 40 CFR 265.32(b) (9 VAC 20-60-265); (e) maintain a description of the location of the spill control equipment as required by 40 CFR 265.52(e) (9 VAC 20-60-265); (f) maintain an inspection plan for the spill control equipment as required by 40 CFR 265.33 (9 VAC 20-60-265); and (g) conduct annual hazardous waste training as required by 40 CFR 265.16(c) (9 VAC 20-60-265).
4. Furthermore, hazardous waste manifest records revealed that Stowe Woodward shipped its three main waste streams (toluene diisocyanate; epoxy resin and MEK; and toluene and mineral spirits) on July 11, 2006, January 10, 2006, September 22, 2005, July 12, 2005, February 22, 2005, September 17, 2004, and May 27, 2004. The infrequency of the shipments indicates a violation of 40 CFR 262.34(a) (9 VAC 20-60-262) that requires

LQGs to ship waste within 90 days of generation.

5. Observations made by VRO staff at the Site during the August 2006 inspections revealed that Stowe Woodward violated the VHWMR by failing to: (a) mark the words "Hazardous Waste" on containers located in four accumulation areas as required by 40 CFR 262.34.(c)(1)(ii) (9 VAC 20-60-262); (b) date containers of universal waste as required by 40 CFR 273.15 (9 VAC 20-60-273); (c) label boxes containing waste fluorescent bulbs as required by 40 CFR 273.14 (9 VAC 20-60-273); (d) maintain aisle space to the satellite and <90-day accumulation drums in several areas of the Site as required by 40 CFR 265.35 (9 VAC 20-60-265); (e) maintain visible labels and an inventory log of the drums in the <90-day storage area as required by 40 CFR 262.34(a)(3) (9 VAC 20-60-262); and (f) maintain visible "No Smoking" signs and have available contracts with emergency cleanup contractors as required by 40 CFR 265.17(a) (9 VAC 20-60-265).
6. During the August inspections, VRO staff also observed Stowe Woodward employees moving hazardous waste from one satellite accumulation area in the R & D lab to a second satellite accumulation area in the Cement Building. 40 CFR 262.34(c)(1) (9 VAC 20-60-262), does not allow hazardous waste to be moved from one satellite location to another satellite area.
7. Moreover, VRO staff observed at the Site several satellite accumulation areas that had greater than 55 gallons of collected waste in violation 40 CFR 262.34(c)(1) (9 VAC 20-60-262); the storage of hazardous waste drums outside and not in the designated <90-day accumulation areas without notifying DEQ in violation of 9 VAC 20-60-262.B.4; and several open waste containers in five waste accumulation areas in violation of 40 CFR 265.173 (9 VAC 20-60-265).
8. 9 VAC 20-60-50.A states that the above-referenced regulations apply to any person that generates, transports, stores, treats, or disposes of a hazardous waste.
9. Stowe Woodward is a "person" as that term is defined by 9 VAC 20-60-260 and 40 CFR 260.10.
10. DEQ issued a Notice of Violation (NOV) to Stowe Woodward, citing the above-listed violations, on October 12, 2006.
11. DEQ staff met with Stowe Woodward representatives, including the plant manager, at an enforcement meeting held on November 14, 2006. At the meeting, Stowe Woodward representatives demonstrated that all violations observed by DEQ inspectors in the August 2006 inspections were either corrected immediately or at most within 30 days of

the inspection. Stowe Woodward is presently in full compliance with applicable regulations.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders Stowe Woodward, and Stowe Woodward voluntarily agrees that it shall:

1. Pay a civil charge of **\$13,930.00** within 30 days of the effective date of this Order in settlement of the apparent violations cited in this Order. The effective date of this Order shall be the date the Order is signed by the Director, after required notice and approval by the Board. Payment shall be made by check payable to the "Treasurer of Virginia," delivered to:

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

The payment shall include Stowe Woodward's Federal ID number and shall state that it is being tendered in payment of the civil charge assessed under this Order.

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

1. This Order only addresses and resolves those apparent violations specifically identified herein, including those matters addressed in the NOV issued on October 12, 2006. 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.
2. For purposes of this Order and subsequent actions with respect to this Order, Stowe Woodward admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
3. Stowe Woodward 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 and all other facts and conclusions of law, including any action taken by the Board to enforce this Order.

4. Failure by Stowe Woodward 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.
5. 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.
6. Stowe Woodward 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. Stowe Woodward shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Stowe Woodward shall notify the VRO 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 VRO Regional Director within 24 hours of learning of any condition above, which Stowe Woodward 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.

7. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

8. This Order shall become effective upon execution by both the Director or his designee and Stowe Woodward. Notwithstanding the foregoing, Stowe Woodward agrees to be bound by any compliance date which precedes the effective date of this Order.
9. This Order shall continue in effect until:
  - a. Stowe Woodward petitions the Director or his designee to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order. The Director's determination that Stowe Woodward has satisfied all the Requirements of the Order is a case decision within the meaning of the Virginia Administrative Process Act; or
  - b. The Director or the Board terminates this Order in his or its own discretion upon 30 days' written notice to Stowe Woodward.
10. By appropriate signature below, Stowe Woodward voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 7<sup>th</sup> day of May, 2007.



Amy Thatcher Owens, Regional Director  
Valley Regional Office  
Department of Environmental Quality

Stowe Woodward voluntarily agrees to the issuance of this Order.

By: MD Wallin

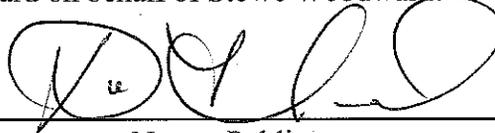
Date: 3-23-07

Commonwealth of Virginia

City/County of Frederick

The foregoing document was signed and acknowledged before me this 23 day of March, 2007, by Michael D. Wilkinson, who is  
(name)

Plant Manager of Stowe Woodward on behalf of Stowe Woodward  
(title)



Notary Public

My commission expires: My Commission Expires August 31, 2008