



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTH CENTRAL REGIONAL OFFICE

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L. Preston Bryant, Jr.  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas L. Henderson  
Regional Director

## VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

### ORDER BY CONSENT

### ISSUED TO

Waytec Electronics Corporation

VAD098454192

#### 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 Waytec Electronics Corporation of Lynchburg, Virginia 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 citizen's board of the Commonwealth of Virginia as described in 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.
5. "Order" means this document, also known as a Consent Order.
6. "Waytec" means Waytec Electronics Corporation, licensed to do business in Virginia.

7. "SCRO" means the South Central Regional Office of DEQ, located in Lynchburg, Virginia.
8. "Regulations" means the Virginia Hazardous Waste Management Regulations (VHWMR) at 9 VAC 20-60-12 *et seq.*, which incorporates text from Title 40 of the Code of Federal Regulations (CFR).
9. "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.*
10. "NOV" means Notice of Violation.

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

1. Waytec is located at 1105 McConville Road, Lynchburg, VA ("Facility"). Waytec manufactures custom printed circuit boards for civilian and military applications at the Facility.
2. On August 17, 2005, DEQ-SCRO staff conducted a compliance evaluation inspection of the Facility, and issued a Warning Letter on September 2, 2005 for alleged violations of the Regulations.
3. On January 23, 2007, DEQ-SCRO staff conducted a compliance inspection of the Facility. Staff also reviewed documents provided to DEQ during the course of the inspection. Based on observations made during the inspection of the Facility, DEQ issued NOV 07-01-SCRO-010 to Waytec on February 23, 2007 for alleged violations of the Regulations. The NOV cited Waytec for 9 alleged violations observed during both the August 17, 2005, and the January 23, 2007 inspections. An additional 11 alleged violations were observed only during the January 23, 2007 inspection.
4. Waytec did not clearly label a 30 cubic yard roll-off container of F006 sludge and five 55-gallon drums of hazardous waste in the <90 day accumulation area with the words "Hazardous Waste". This is in contravention of 9 VAC 20-60-262, which incorporates 40 CFR 262.34(a)(3), which allows a generator to accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that while being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste".
5. Waytec did not label the 30 cubic yard roll-off container of F006 sludge and five 55-gallon drums of hazardous waste in the <90 day accumulation area with the start date. Pursuant to 9 VAC 20-60-262, which incorporates 40 CFR 262.34(a)(2), a generator may accumulate hazardous waste on-site for 90 days or less without a permit or interim status, provided that the date upon which each

period of accumulation begins is clearly marked and visible for inspection on each container.

6. Waytec had two drums of Spent Solder Stripper located in the <90 day accumulation area that were dated 8/28/06 and 10/06/06. Both of these drums have been accumulating at the facility for more than 90 days. This is in contravention of 9 VAC 20-60-262, which incorporates 40 CFR 262.34(b), which defines a generator that accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265, and the permit requirements of part 270 unless he has been granted an extension to the 90-day period.
7. Waytec did not conduct weekly inspections where containers are stored, or the sludge roll-off container, for leaks or other problems. 9 VAC 20-60-262 of the VHWMR, which incorporates 40 FR 262.34(d)(2), requires the owner or operator to inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.
8. Waytec failed to maintain sufficient aisle space between the drums being accumulated in the <90 day accumulation area. Pursuant to 9 VAC 20-60-262, which incorporates 40 CFR 262.34(a)(4), the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
9. Waytec failed to maintain a copy of the manifest from the shipment made on 12/4/06, with the signature of the disposal facility certifying proper disposal. 9 VAC 20-60-262, which incorporates 40 CFR 262.40(a), requires the generator to keep a signed copy from the designated facility which received the waste as a record for at least three years from the date the waste was accepted by the initial transporter.
10. Waytec failed to administer Annual refresher training to those employees that are required to manage hazardous waste. Pursuant to 9 VAC 20-60-265, which incorporates 40 CFR 265.16(c), facility personnel must take part in an Annual review of the initial training required in 265.16(a).
11. Waytec did not physically describe and identify the location(s) of all emergency equipment at the facility in the contingency plan. 9 VAC 20-60-265 of the VHWMR, which incorporates 40 CFR 265.52(e), the contingency plan must include a list of all emergency equipment at the Facility, and the list be kept up-to-date. in addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

12. Waytec's contingency plan does not contain evacuation routes and alternate evacuation routes. 9 VAC 20-60-265, which references 40 CFR 265.52(f), requires that the contingency plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary.
13. Waytec failed to maintain a job description for each employee whose position at the facility is related to hazardous waste management. This is in contravention of 9 VAC 20-60-265, which incorporates 40 CFR 265.16(d)(2), a written job description for each position with a job title must be maintained at the Facility. The '05 and '06 inspection results show apparent violations of 9 VAC 20-60-265, where Waytec inadequately trained personnel handling hazardous waste.
14. Waytec failed to submit a written training program to DEQ for review and approval. Pursuant to 9 VAC 20-60-265, incorporating 40 CFR 265.16(a)(1), facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of the regulation.
15. Waytec failed to designate a specific emergency coordinator in the Facility's contingency plan. As required by 9 VAC 20-60-265 of the VHWMR, and referencing 40 CFR 265.52(d), the contingency plan must list names, addresses, and phone numbers of all persons qualified to act as emergency coordinator, and this list must be kept up-to-date. Where more than one person is listed, one must be listed as the primary emergency coordinator, and the others must be listed in the order in which they will assume responsibility as alternatives.
16. Waytec did not familiarize the local hospital with the wastes handled at the facility, and the types of injury or illness that could result from Facility operations. Pursuant to 9 VAC 20-60-265, which incorporates 40 CFR 265.53(b), a copy of the contingency plan and all revisions to the plan must be submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
17. Waytec did not provide evidence of conducting training in hazardous waste management procedures to employees relevant to their positions. In contravention of 9 VAC 20-60-265, and incorporating 40 CFR 265.16(a)(2), the facility must provide instruction which teaches facility personnel hazardous waste management procedures relevant to the positions in which they are employed.
18. As observed during the January 23, 2007 inspection, Waytec failed to provide evidence of training documents on site. Pursuant to 9 VAC 20-60-265, which incorporates 40 CFR 265.16(d)(4), the owner or operator must maintain records that document that the training or job experience required under paragraphs (a), (b), and (c) of Part 264.16 has been given to, and completed by, Facility personnel.
19. Waytec failed to provide evidence of notification to a treatment facility on an

initial shipment of restricted waste of the appropriate treatment standards and any applicable prohibitions. Pursuant to 9 VAC 20-60-268, which incorporates 40 CFR 268.7(a)(1-2), the generator must determine if the waste has to be treated before it can be land disposed. If the waste does not meet the treatment standard, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file.

20. As observed during the January 23, 2007 inspection, Waytec failed to demonstrate the length of time universal waste (lamps) had been accumulating from the date they became a waste. Pursuant to 9 VAC 20-60-273 of the VHWMR, which incorporates 40 CFR 273.15(c), 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.
21. Waytec exceeded the allowable accumulation time for universal waste (batteries and lamps). In contravention of 9 VAC 20-60-273, incorporating 40 CFR 273.15(a), a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of Part 273.15 are met.
22. As observed during the January 23, 2007 inspection, Waytec failed to label the boxes of universal waste – lamps as “Universal Waste – Lamps.” Pursuant to 9 VAC 20-60-273, which incorporates 40 CFR 273.14(e), each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with any one of the following phrases: “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”
23. Waytec failed to label containers and above ground storage tanks of used oil with the words “Used Oil.” 9 VAC 20-60-279 of the VHWMR, which incorporates 40 CFR 279.22(c), requires that containers and above ground tanks used to store used oil at generator facilities must be labeled or marked with the words “Used Oil.”

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

Accordingly, the Virginia Waste Management Board, by virtue of the authority granted it in Va. Code § 10.1-1455, orders Waytec, and Waytec voluntarily agrees that:

1. Waytec shall perform the actions described in Appendix A and Appendix B of this Order to remedy violations described above and achieve compliance with the Regulations. In addition, the Board orders, and Waytec consents, to pay a civil charge of \$10,700.00 in settlement of the alleged violations cited herein.

2. **\$2,675** of this civil charge shall be paid within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia" and sent to:

Receipts Control  
Department of Environmental Quality  
PO Box 1104  
Richmond, VA 23218

Either on a transmittal letter or as a notation on the check, Waytec shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for Waytec.

3. **\$8,025** of this civil charge shall be satisfied upon completion by Waytec of a Supplemental Environmental Project (SEP) pursuant to Va. Code § 10.1-1186.2, and as described in Appendix B of this Order.
4. By signing this Order, Waytec certifies that it has not commenced performance of the SEP before DEQ identified the violations in this Order and approved the SEP.
5. In the event that the SEP is not performed as described in Appendix B, upon notification by the Department, Waytec shall pay the amount specified in Paragraph 3 above within 30 days of such notification according to the procedures specified in Paragraph 2 above, unless an alternate project has been agreed upon by the parties.

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

1. The Board may modify, rewrite, or amend the Order with the consent of Waytec, for good cause shown by Waytec, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. 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 affect appropriate enforcement actions by other federal, state, or local regulatory authorities whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, Waytec admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Waytec 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. Waytec declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the Waste Management Act, Code § 10.1-1400 *et seq.*, and 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 Waytec 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. Waytec 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 other similar occurrence. Waytec shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Waytec shall notify the SCRO Regional Director verbally and 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 written 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.

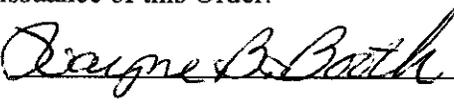
Failure to notify the SCRO Regional Director verbally within one business day and in writing within five business days of learning of any condition above, which Waytec intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.
9. Any plans, reports, schedules, or specifications attached hereto, or submitted by or on behalf of Waytec, 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.

10. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
11. This Order shall become effective upon execution by the Director, or his designee, and Waytec. Notwithstanding the foregoing, Waytec agrees to be bound by any compliance date which precedes the effective date of this Order.
12. This Order shall continue in effect until the Board, the Director, or his designee, terminates the Order in its or his sole discretion upon 30 days written notice to Waytec. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Waytec from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
13. By its signature of an authorized official below, Waytec voluntarily consents to the issuance of this Order.
14. The undersigned representative of Waytec 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 Waytec to this Order. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of Waytec.

And it is so ORDERED this 29<sup>th</sup> day of October, 2007.

  
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Thomas L. Henderson, Director  
South Central Regional Office  
Department of Environmental Quality

Waytec Electronics Corporation consents to the issuance of this Order.

By:   
\_\_\_\_\_

Date: 9-6-07

ORDER BY CONSENT  
WAYTEC ELECTRONICS CORPORATION  
VAD098454192  
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Commonwealth of Virginia  
City/County of Lynchburg

The foregoing document was signed and acknowledged before me this 6<sup>th</sup> day of  
September, 2007, by Wayne Booth, who is the  
Wayne Booth

President of Waytec Electronics Corporation, Lynchburg, Virginia.

Betty B. Pomeroy  
Notary Public

My commission expires: 01-2010

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**APPENDIX A**  
**SCHEDULE OF COMPLIANCE**  
**WAYTEC ELECTRONICS CORPORATION**

1. Within ninety (90) days of the execution of this Order, Waytec shall submit for Department review and approval a Solid Waste Management Plan (SWMP) in order to bring the facility into compliance with the requirements of the Virginia Solid Waste Management Regulations (VSWMR). The SWMP shall:
  - a. Detail Standard Operating Procedures (SOPs) for the management of the facility's hazardous, non-hazardous, and universal wastes.
  - b. Include a certification statement signed by an authorized representative of the corporation. The document shall include both the issuance date, as well as provision for subsequent revisions.
  - c. Address, at a minimum, the following key management areas applicable to the Large Quantity Generator (LQG) universe:
    - Hazardous Waste Determination and Characterization
    - Pre-Transport Requirements
    - Personnel Training
    - Recordkeeping and Reporting
    - Preparedness and Prevention
    - Contingency Plan and Emergency Procedures
    - Manifest Requirements
2. The SWMP shall be implemented within 30 days of final approval by the Department.
3. During the first year of this Order, Waytec shall submit quarterly audit reports to the Department for review. The audits conducted shall be inclusive of all SOPs contained in the SWMP, as described in paragraph 1(c) above. Each audit report submitted to the Department shall include a certification statement signed by an authorized representative of the corporation.
4. Upon Department review and approval of the audit reports for the first year, Waytec may request a revised audit schedule. The Department shall review the request based on facility compliance with the VHWMR. Quarterly audit results, as well as unannounced compliance inspections, will be factored into the review.
5. Upon completion of the audit review described in paragraph (4) above, if Waytec is found to be in full compliance, Waytec shall be granted a revised final audit requirement to determine compliance with this Order. The final audit is to be inclusive of all SOPs covered in the quarterly audits.

**APPENDIX B  
SUPPLEMENTAL ENVIRONMENTAL PROJECT  
WAYTEC ELECTRONICS CORPORATION**

1. The Supplemental Environmental Project to be performed by Waytec shall consist of the development, implementation, and maintenance of a Compliance-Focused Environmental Management System (CFEMS) by the facility. The purpose of developing the CFEMS is to assist Waytec in its efforts to comply with federal, state, and local environmental requirements. The CFEMS shall address, at a minimum, the following 12 key elements:
  - a. Environmental Policy
  - b. Organization, Personnel, and Oversight of EMS
  - c. Accountability and Responsibility
  - d. Environmental Requirements
  - e. Assessment, Prevention, and Control
  - f. Environmental Incident and Noncompliance Investigations
  - g. Environmental Training, Awareness, and Competence
  - h. Environmental Planning and Organizational Decision-Making
  - i. Maintenance of Records and Documentation
  - j. Pollution Prevention Program
  - k. Continuing Program Evaluation and Improvement
  - l. Public Involvement/Community Outreach
  
2. Within 30 days of the effective date of this Order, Waytec shall submit to DEQ in writing the name and affiliation of the initial auditor selected by the Facility to conduct the Initial EMS Review and Evaluation (“Gap Analysis”), along with documentation that the auditor:
  - a. Meets the qualification requirements of ISO 14012.
  - b. Has a working knowledge of the Facility.
  - c. Has a working knowledge of federal, state, and local environmental regulations which apply to the Facility.

A schedule for conducting the Initial EMS Review and Evaluation, including milestones, shall be included in the submission.

3. Within two hundred ten (210) days of the effective date of this Order, Waytec shall complete the preparation of an "EMS Manual", which shall describe and document the CFEMS and contain an implementation schedule for each of the described systems not already implemented.
4. Within two hundred forty (240) days of the effective date of this order, Waytec shall submit the complete EMS Manual to DEQ for review and approval.
5. Beginning with the first quarter following the execution of the Order, Waytec shall submit quarterly implementation status reports to DEQ. The reports shall be due within fifteen (15) days after the end of each quarter, until the Audit set forth in Paragraph 6 is completed.
6. Waytec shall select an Auditor to conduct an EMS Audit twelve (12) months after the completion of the EMS Manual, to evaluate the effectiveness of EMS implementation. The Auditor must not have been involved in the Initial EMS Review and Evaluation, must meet the qualification requirements of ISO 14012, and have a working knowledge of federal, state, and local regulatory programs as they apply to the Facility.
7. Waytec shall direct the Auditor to develop and concurrently submit an Audit Report to the Facility and DEQ for the EMS Audit as required by this Order, within thirty (30) days following the on-site portion of the Audit.
8. Upon receiving the Audit Report, Waytec shall conduct a root cause analysis of the Audit Findings, and as appropriate, investigate areas of concern and develop an Action Plan to bring the Facility into conformance with the CFEMS elements in Paragraph 1 of this Appendix and the Facility's EMS Manual. The Action Plan shall be submitted to DEQ within thirty (30) days of receiving the Audit Report.
9. Within ten (10) days of completing all items or activities outlined in the Action Plan, Waytec shall submit to the EMS Auditor a Request for Certification of EMS Implementation. Within thirty (30) days after it has received the request from Waytec, the EMS Auditor shall, as necessary, conduct a Certification Review identifying those Audit Findings which have been addressed, and those which have not been addressed, along with an explanation describing the uncorrected items.
10. When the EMS Auditor concludes that all Audit Findings have been addressed at the Facility, the Auditor shall issue Waytec a Certification of EMS Implementation, indicating that the EMS is fully implemented and conforms to the EMS Standard. Within ten (10) days of receipt, Waytec shall submit a copy of the Certification of EMS Implementation to DEQ.