

**WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
BUTLER WOODCRAFTERS, INC.
EPA ID No. VAR000505073**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Butler Woodcrafters, Inc., for the purpose of resolving certain violations of environmental law and/or 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 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. “Butler Woodcrafters” means Butler Woodcrafters, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. “Facility” means Butler Woodcrafters, Inc., facility located at 1381 Brickyard Street, in Lawrenceville, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “VHWMR” means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Butler Woodcrafters owns and operates a furniture manufacturing facility in Lawrenceville, Virginia. The facility is a large quantity generator of hazardous waste.
2. On February 25, 2003, DEQ conducted an inspection of Butler Woodcrafters. The following violations were noted during the inspection:
 - Failure to have an Environmental Protection Agency (EPA) identification number as required by 40 CFR 262.12.
 - Hazardous waste accumulation violations.
 - Personal training deficiencies.
 - Failure to make arrangements with the local authorities.
 - Contingency Plan and Emergency Procedures deficiencies.
 - Failure to conduct weekly container inspections.
 - Management of container violations.
 - Satellite accumulation area violations.
 - Failure to notify the Director of the accumulation area.
 - Failure to submit the Biennial Report.
3. On April 7, 2003, a Notice of Violation (NOV) No. 2003-04-PRO-601 was issued for the above violations.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders Butler Woodcrafters, and Butler Woodcrafters agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Butler Woodcrafters, and Butler Woodcrafters voluntarily agrees to pay a civil charge of \$7,560 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 payable to the “Treasurer of Virginia” and shall be delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, Butler Woodcrafters shall include its Federal Identification Number.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Butler Woodcrafters for good cause shown by Butler Woodcrafters, 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 Butler Woodcrafters by DEQ on April 7, 2003. 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 purposes of this Order and subsequent actions with respect to this Order, Butler Woodcrafters admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Butler Woodcrafters 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. Butler Woodcrafters 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 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 Butler Woodcrafters 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. Butler Woodcrafters 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. Butler Woodcrafters shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Butler Woodcrafters shall notify the DEQ 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 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 Butler Woodcrafters . Notwithstanding the foregoing, Butler Woodcrafters 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 Butler Woodcrafters. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Butler Woodcrafters 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, Butler Woodcrafters voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

Butler Woodcrafters voluntarily agrees to the issuance of this Order.

Date: _____

By: _____
W. Winston Brewer, Jr.
General Manager

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2003, by _____, who is
(Name)

_____ of Butler Woodcrafters, on behalf of the Corporation.
(Title)

Notary Public

My commission expires: _____.

APPENDIX A

SCHEDULE OF COMPLIANCE

Butler Woodcrafters shall:

1. Within sixty (30) days of the effective date of this Order, Butler Woodcrafters shall complete hazardous waste management training as required by 40 CFR 264.16 (as incorporated by 9 VAC 20-60-264) for appropriate staff.
2. Within sixty (60) days of the effective date of this Order, Butler Woodcrafters shall provide for review to DEQ, a contingency plan and emergency procedures for the Facility as required by 40 CFR 264.50-56 (as incorporated by 9 VAC 20-60-264).
3. Within thirty (30) days of the Department's final review of the Contingency Plan, Butler Woodcrafters shall complete making arrangements with the local police, fire departments, local hospitals and the local emergency response teams to familiarize them with the operations at the facility as required by 40 CFR 264.37 (as incorporated by 9 VAC 20-60-264)
4. As required by 40 CFR 264.174, Butler Woodcrafters shall implement within ten (10) days of the effective date of this Order, a weekly inspection program of the hazardous waste accumulation area and maintain a log of the results of these inspections for inspection by the Department.
5. Within ten (10) days of the effective date of this Order, Butler Woodcrafters shall take the necessary measures to bring the satellite accumulation area into compliance with 40 CFR 262.34 (c) (1) (ii) and 40 CFR 264.73 (a).
6. Within ten (10) days of the effective date of this Order, Butler Woodcrafters shall notify in writing the exact location of the accumulation area as required by 9 VAC 20-60-262.B.4.