



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

COMMONWEALTH OF VIRGINIA WASTE MANAGEMENT BOARD CONSENT ORDER ISSUED TO

Commonwealth Laminating and Coating, Inc.
EPA ID: VAR000008433

Section A: Purpose

This is a consent order issued under the authority of §§ 10.1-1182 *et seq.* and §§ 10.1-1402, 10.1-1405, and 10.1-1455 of the Code of Virginia (1950), as amended, by the Virginia Waste Management Board to Commonwealth Laminating and Coating, Inc. to resolve certain alleged violations of environmental laws and/or regulations at the Commonwealth Laminating and Coating, Inc. facility in Martinsville, Virginia.

Section B: Definitions

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

1. "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 Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "CLCI" means Commonwealth Laminating and Coating, Inc., a Virginia corporation, licensed to do business in Virginia on December 14, 1995.
6. "Order" means this document, also known as a consent order.

An Agency of the Natural Resources Secretariat

7. "Regulations" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* ("HWMR"). The specific provisions of Title 40 of the Code of Federal Regulations ("CFR") cited herein are incorporated by reference at 9 VAC 20-60-260, 9 VAC 20-60-261, 9 VAC 20-60-262, 9 VAC 20-60-264, 9 VAC 20-60-265, 9 VAC 20-60-268, and 9 VAC 20-60-270.
8. "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.*
9. "Regional Office" means the West Central Regional Office of the Virginia Department of Environmental Quality, which is located at 3019 Peters Creek Road, Roanoke, Virginia 24019.

Section C: Findings of Fact and Conclusions of Law

1. CLCI laminates and coats plastic film for use in window tinting for automotive and industrial applications in Martinsville, Virginia. CLCI is registered with EPA and the Department as a large quantity generator of hazardous waste and has been assigned EPA hazardous waste generator ID number VAR000008433.
2. Waste streams at the CLCI facility include spent solvents that may include ethyl acetate, methyl ethyl ketone ("MEK"), toluene, N-butyl acetate, pm acetate and isopropyl alcohol ("IPA"). Ignitable solids that may include MEK, toluene and IPA and ignitable caustic cleaners that may include IPA and potassium hydroxide. EPA waste codes for the above wastes include D001, D002, D035, F003, and F005.
3. Department staff conducted a hazardous waste compliance evaluation inspection at the CLCI facility on May 4, 2004. In a Notice of Violation issued to CLCI on May 11, 2004, the Department cited violations of the Regulations that were documented by the inspection.
4. Inspection results showed that in violation of requirements of 40 CFR 265.16(a)(1), CLCI's training program did not include any RCRA Sub-Title C (hazardous waste management) specific training and could not produce documentation that employees had received this type of training. In addition, the facility could not provide documentation that employees had received training in the implementation of the facility's contingency plan. This area of non-compliance was also cited in the most recent inspection of CLCI in a Warning Letter dated December 12, 2002.
5. Inspection results showed that in violation of the requirements of 40 CFR 265.16(b), CLCI had failed to provide training to employees within six months after their date of employment or work assignment and were working unsupervised, in their position, managing hazardous waste.

6. Inspection results showed that in violation of 40 CFR 265.16(c), CLCI could not provide documentation of annual refresher training provided to employees since 2001.
7. Inspection results showed that in violation of 40 CFR 265.16(d), CLCI could not provide job titles, names of employees filling the positions, job descriptions or duties related to hazardous waste management, and required training or documents showing that any training with regard to hazardous waste management had been completed by any of its employees. This area of non-compliance was also cited in the most recent inspection of CLCI in a Warning Letter dated December 12, 2002.
8. Inspection results showed that in violation of 40 CFR 265.54, CLCI had not updated the contingency plan to show new portions of the building, the new equipment, the new emergency equipment (fire extinguishers), new hazardous waste accumulation areas, and other material changes in the facility.
9. Inspection results showed that in violation of 40 CFR 265.53, CLCI could not provide a revised contingency plan during the inspection and that the contingency plan provided during the inspection was the only plan. Thus, it can be determined that the local police, fire, hospital, and State and local responders do not have a revised copy.
10. Inspection results showed that in violation of 40 CFR 262.11, CLCI generates spent mercury vapor light tubes and CLCI has not made a hazardous waste determination for this waste stream as required.
11. Inspection results showed that in violation of 9 VAC 20-60-1495 A and B, CLCI managed the spent mercury vapor light tubes as solid waste and not as a hazardous waste or universal waste.
12. Inspection results showed that in violation of 40 CFR 268.1(c) and 40 CFR 268.7(a)(1), CLCI disposed of the spent mercury vapor light tubes as solid waste and land disposed of a restricted hazardous waste without first treating and meeting the Land Disposal Restriction of 40 CFR 268.40.
13. Inspection results showed that in violation of 40 CFR 268.7(a)(2), CLCI failed to notify the solid waste disposal facility that it was disposing of a restricted hazardous waste by sending a Land Disposal Restriction form with the initial waste shipment.
14. Inspection results showed that in violation of 40 CFR 262.34(a)(3), CLCI failed to label 28 55-gallon drums located in the less than 90-day accumulation area with the exact words "Hazardous Waste. This area of non-compliance was also cited in the most recent inspection of CLC in a Warning Letter dated December 12, 2002.
15. Inspection results showed that in violation of 40 CFR 262.34(c)(2), CLCI was not operating

two of the three satellite accumulation areas (“old glue room” and “mixing room”) under the satellite accumulation requirements. There were six 55-gallon drums located in the old glue room and three 55-gallon drums located in the mixing room, none of which were dated with the date the amount over 55-gallons were being accumulated. In addition, facility representatives stated that drums containing hazardous waste are moved from other areas around the plant into each satellite accumulation area and between the two satellite accumulation areas. These two areas were not being managed as less than 90-day accumulation areas while amounts over 55-gallons were being managed.

16. Inspection results showed that in violation of 40 CFR 265.174, CLCI was not completing weekly inspections of the less than 90-day hazardous waste accumulation areas. A review of the weekly inspection log indicated that the last weekly inspection was conducted in March 2001.
17. Inspection results showed that in violation of 40 CFR 262.42(a)(2), CLCI had failed to file exception reports documenting the fact that signed copies of manifests had not been returned. The manifests in question were for shipments 99111 dated 02/16/2004, 99112 dated 02/19/2004, and 99113 dated 03/11/2004.
18. Inspection results showed that in violation of 9 VAC 20-60-262.B.4, CLCI was accumulating hazardous waste in a new less than 90-day accumulation area and had not notified the Department of this new accumulation area prior to or immediately upon establishment. This new area was not noted on the contingency plan.
19. Inspection results showed that in violation of 40 CFR 262.40(b), CLCI was not able to provide a copy of the 2003 Biennial Report during the inspection. This area of non-compliance was also cited in the most recent inspection of CLCI in a Warning Letter dated December 12, 2002.
20. Department enforcement and compliance staff met with representatives of the company on July 7, 2004. At the time of the meeting, the representatives provided additional information and documentation to the Department. This information was reviewed by Department staff and it was determined that the facility has made substantial effort since the May 4, 2004 inspection to comply with all regulations and correct all compliance issues at the facility. The Department determined that all compliance issues had been satisfactorily addressed and corrected. This determination was based on the additional information provided to the Department in the July 7, 2004 meeting and compliance was not determined by an on-site inspection.

Section D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it pursuant to Code § 10.1-1455, orders

CLCI, and CLCI voluntarily agrees, to pay a civil charge of Fourteen Thousand Seven Hundred Dollars (\$14,700) in settlement of the violations cited in this Order. The civil charge shall be paid in six monthly installments of Two Thousand Four Hundred and Fifty Dollars (\$2,450). The first monthly installment of the civil charge shall be due no later than 30 days after the effective date of the Order and the civil charge shall be paid in full no later than 180 days after the effective date of the Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

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

The payment shall include CLCI's Federal Identification Number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

Section E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of CLCI, for good cause shown by CLCI, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations pertaining to the facility specifically identified herein, including the violations specified in the Notice of Violation issued by the Department to CLCI on May 11, 2004. 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 terms of this 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, CLCI admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. CLCI 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. CLCI declares that it has received fair and due process under the Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the Virginia 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 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, or to judicial review of, any action taken by the Board or the Director to enforce this Order.

6. Failure by CLCI 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 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. CLCI 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, or other act of God, war, strike, or other such occurrences. CLCI must show that the circumstances resulting in the noncompliance were beyond its control and were not due to a lack of good faith or diligence on its part. CLCI shall notify the Director and the Director of the Department's West Central Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of 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.

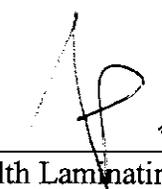
Failure to so notify the Director and the Director of the Department's West Central Regional Office within 24 hours of the commencement of the condition causing or anticipated to cause the delay or noncompliance shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. Any plans, reports, schedules or specifications attached hereto or submitted by CLCI 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.

11. This Order shall become effective upon execution by both the Director or his designee and CLCI. Notwithstanding the foregoing, CLCI agrees to be bound by any compliance date that precedes the effective date of this Order.
12. This Order shall terminate upon receipt by DEQ of the funds specified in Section D herein.
13. By the signature of an authorized official below, CLCI voluntarily agrees to the issuance of this Order.
14. The undersigned representative of CLCI 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 CLCI to this Order. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of CLCI.

And it is so ORDERED this day of 11-24, 2004.

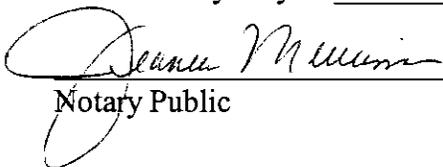

for Robert G. Burnley, Director
Department of Environmental Quality

Seen and Agreed to: 
Commonwealth Laminating and Coating, Inc.

The foregoing instrument was acknowledged before me on 9/24/2004

By Stephen Phillips, President, on behalf of Commonwealth Laminating and Coating, Inc.

in the County/City of Martinsville, State of Virginia.


Notary Public

My Commission expires: 8/31/2006