

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION**

**ORDER BY CONSENT
ISSUED TO**

**Dynamic Seals Incorporated
EPA Hazardous Waste ID No. VAD982662504**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1185 and 10.1-1455.C and F, between the Virginia Waste Management Board and Dynamic Seals Incorporated to resolve certain violations of environmental law and 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. “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 Virginia 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. “SCRO” means the South Central Regional Office of DEQ, located in Lynchburg, Virginia.
7. “Dynamic” means Dynamic Seals Incorporated, certified to do business in Virginia.
8. “Facility” means the business located at 3700 Mayflower Drive in Lynchburg, Virginia.
9. “VHWMR” means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.*, which incorporates by reference the specific provisions of Title 40 of the Code of Federal Regulations (“CFR”) cited herein.

SECTION C: Findings of Fact and Conclusions of Law

1. Dynamic designs and manufactures engineered seals and sealing systems for transmissions, engines, and power generation components of automotive and heavy-duty equipment.
2. Dynamic is a Small Quantity Generator (“SQG”) operating under the Environmental Protection Agency (“EPA”) Hazardous Waste identification number VAD982662504.
3. On January 3, 2002, Dynamic was issued a Notice of Violation (“NOV”) as a result of an October 17, 2001 Compliance Evaluation Inspection (“CEI”) of the Facility, which found the following violations of the VHWMR:
 - a. Facility failed to provide adequate aisle space to allow the unobstructed movement of personnel or equipment in case of an emergency as required by 40 CFR § 265.35.
 - b. Facility failed to label containers as “Used Oil” as required by 40 CFR § 279.22(c)(1).
 - c. Facility failed to properly mark the accumulation date on one container of hazardous waste, and failed to label the container as “Hazardous Waste” as required by 40 CFR §§ 262.34(a)(2) and (3).
 - d. Facility failed to label boxes containing mercury bulbs as “Universal Waste – Mercury Containing lamp(s)” as required by 40 CFR § 273.14(e).
 - e. Facility failed to designate an employee as the emergency coordinator as required by 40 CFR § 262.34(d)(5)(i).
4. On January 16, 2002, the SCRO of DEQ received written and photographic documentation that the violations cited in the NOV had been corrected; however, one photograph evidenced

failure to properly contain lamps as required by 40 CFR § 273.13(d)(1).

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted in Va. Code § 10.1-1455.C and F orders Dynamic, and Dynamic consents, to pay a civil charge of \$4,700 within 30 days of the effective date of this Order in settlement of the violations cited herein. The payment shall include the Federal ID number for Dynamic and shall state that it is being tendered in payment of the civil charge assessed under this Order. The payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", and delivered to:

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

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Dynamic, for good cause shown by Dynamic, 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 preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. Solely for the limited purposes of this Order and subsequent actions with respect to this Order, Dynamic admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Dynamic 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. Solely for the limited purpose of the issuance of this Order, Dynamic 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 Dynamic 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. Dynamic 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. Dynamic shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dynamic 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 Dynamic 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. 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 the Director or his designee and Dynamic. Notwithstanding the foregoing, Dynamic agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall terminate upon receipt of the funds specified in Section D herein. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Dynamic 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, Dynamic consents to the issuance of this Order.

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

Robert G. Burnley, Director
Department of Environmental Quality

Dynamic consents to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this ___ day of
_____, 2003, by _____, who is
Thomas A. Piraino

the Vice President of Dynamic, on behalf of the Company.

Notary Public

My commission expires: _____.

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