



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

West Central Regional Office

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L. Preston Bryant, Jr
Secretary of Natural Resources

David K. Paylor
Director

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Regional Director

COMMONWEALTH OF VIRGINIA

WASTE MANAGEMENT BOARD

CONSENT ORDER

ISSUED TO

GAMMAPAR LLC

EPA ID VAR000016295

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 GAMMAPAR LLC to resolve certain alleged violations of environmental laws and/or regulations at the GAMMAPAR LLC facility in Forest, 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. "GAMMAPAR" means GAMMAPAR LLC, a Virginia limited liability corporation, licensed to do business in Virginia.
6. "Order" means this document, also known as a consent order.
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. GAMMAPAR is located at 1191 Venture Drive, Forest, Virginia. The facility manufactures wood-acrylic composite flooring for high traffic areas. The flooring is manufactured by impregnating wood flooring strips with the monomer methyl methacrylate (MMA) and exposing the saturated wood to a radioactive source. The radioactive source accelerates the polymerization of the MMA to make re-enforced flooring. According to the data provided on the inspection report dated April 8, 2005, the facility is considered a Large Quantity Generator ("LQG") and has been assigned EPA hazardous waste generator ID number VAR000016295.
2. Waste streams at the facility have included waste methyl methacrylate, waste dichloromethane, waste osmium tetroxide, waste toxic liquids, waste corrosive solids, waste corrosive liquid, acidic, inorganic, waste corrosive liquid, acidic, organic, potassium hydroxide, waste aerosols, compressed gases, waste arsenic trioxide, waste naptha, used oil, fluorescent lights, and asbestos. EPA waste codes for some of the above wastes include D001, D002, D003, F002, P012, P087, U0008, U044, and UN1813.
3. On April 8, 2005, DEQ, WCRO staff conducted a RCRA Subtitle C Compliance Evaluation Inspection at GAMMAPAR. Based on this inspection, DEQ staff had reason to believe that GAMMAPAR may be in violation of the Waste Management Act.
4. At the time of the inspection, there were 31 drums of solid MMA which were characterized

as a solid waste and 23 drums of waste liquid MMA which were characterized as a D001 hazardous waste. Statements made by GAMMAPAR employees during the inspection indicated to Department staff that the drums containing waste MMA were placed outside as a liquid or semi-solid and over time, the waste in the drums becomes solid, thus removing the ignitability. This constitutes treatment of the hazardous waste. Furthermore, statements made by the GAMMAPAR representatives during the March 30, 2006 meeting indicates that there was an absence of a labeling and dating protocol prior to the week of the inspection. Consequently, GAMMAPAR can not accurately determine the amount of time the drums were stored. The DEQ observed drums without lids and exposed waste. Facility staff also stated that any drums (or product) contaminated with water would no longer qualify as usable material. GAMMAPAR states that the waste MMA drums were partially full and weighed approximately 300 pounds. The 23 drums of hazardous waste are equal to 6,900 pounds of hazardous waste.

5. Department enforcement and compliance staff met with representatives of the company on June 21, 2005. At the time of the meeting, the representatives provided additional information and documentation to the Department and discussed possible solutions to the compliance problems at the facility.
6. As a result of the April inspection, a Notice of Violation was issued to GAMMAPAR on August 15, 2005. The Notice of Violation listed fifteen alleged violations at the facility.
7. Inspection results showed that in apparent violation of 9 VAC 20-60-315 D, GAMMAPAR failed to notify the Department in writing that the company had changed status to a LQG and failed to document the change in the operating record. GAMMAPAR made initial notification on July 10, 2000 as a CESQG and made a subsequent notification on January 16, 2001 as a CESQG. A review of hazardous waste manifests for 2005 indicates the facility generated greater than 2,200 pounds of hazardous waste in a calendar month therefore qualifying as a LQG.
8. Inspection results showed that in apparent violation of 9 VAC 20-60-262 B.4, GAMMAPAR failed to notify the Department and document that the facility intends to accumulate hazardous waste in accordance with 40 CFR 262.34 prior to or immediately upon establishment of each accumulation area. The facility accumulates hazardous waste in several areas behind the facility but the facility did not provide the Department with information regarding the establishment of a less than 90 day accumulation area for the accumulation of hazardous wastes.
9. Inspection results showed that in apparent violation of 40 CFR 262.34(a)(2), GAMMAPAR failed to date hazardous waste containers with the date upon which each period of accumulation begins. The facility did not date hazardous waste accumulation containers with

the accumulation start dates.

10. Inspection results showed that in apparent violation of 40 CFR 262.34 (a) (3), GAMMAPAR failed to label or mark clearly with the words "Hazardous Waste" hazardous waste containers accumulated at the facility.
11. Inspection results showed that in apparent violation of 40 CFR 262.34 (c) (1) (i), GAMMAPAR failed to mark satellite accumulation containers at the facility with the words "Hazardous Waste".
12. Inspection results showed that in apparent violation of 40 CFR 265.16 (c) GAMMAPAR failed to provide annual refresher training to ensure that its employees were trained in the proper procedures to manage hazardous waste.
13. Inspection results showed that in apparent violation of 40 CFR 265.16 (d), GAMMAPAR could not provide job titles, names of employees filling the positions, job descriptions or duties related to hazardous waste management.
14. Inspection results showed that in apparent violation of 40 CFR 265.37(a)(4), GAMMAPAR was unable to provide Department staff, at the time of the inspection, with documentation that GAMMAPAR had made arrangements to familiarize the police, fire departments, emergency response teams or the hospital with the facility and the types of hazardous wastes managed at the facility.
15. Inspection results showed that in apparent violation of 40 CFR 265.51, GAMMAPAR was unable to provided Department staff, at the time of the inspection, with documentation that GAMMAPAR had developed a contingency plan designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water.
16. Inspection results showed that in apparent violation of 40 CFR 268.7 (a) (5), GAMMAPAR failed to develop a waste analysis plan to demonstrate how the treatment/management of waste MMA meets the treatment standards in 40 CFR 268.40 required for land disposal.
17. Inspection results showed that in apparent violation of 40 CFR 264.1080 GAMMAPAR stored hazardous waste with a VOC content greater than 500 ppm and failed to comply with the requirements of Subpart CC for the control of air emissions from containers. GAMMAPAR failed to store the waste MMA in DOT approved containers and failed to keep the containers closed.
18. Inspection results showed that in apparent violation of 40 CFR 268.50 GAMMAPAR stored

waste MMA which is restricted from land disposal for more than one year without meeting the storage requirements in Parts 262.34 and 264, a precondition to storage of the land disposal restricted waste.

19. Inspection results showed that in apparent violation of 40 CFR 270.1 (c) and Va. Code §, 10.1 – 1426.A, GAMMAPAR stored hazardous waste for greater than 90 days without obtaining a hazardous waste storage permit.
20. Inspection results showed that in apparent violation of 40 CFR 264 GAMMAPAR failed to meet the operating requirements for a storage unit. The requirements which GAMMAPAR failed to meet include training for employees, development of a contingency plan, maintaining the required documentation, development of a closure/post closure plan, and the demonstration of financial assurance.
21. On August 17, 2005, GAMMAPAR submitted a Form 7 air permit application to the Department. The Form 7 application was for the installation of a 'hot box' to facilitate the completion of the reaction of the hazardous waste, before disposal and allow the facility to meet the treatment standards applicable for disposal.
22. The Department received a written response to the Notice of Violation from GAMMAPAR on September 12, 2005. The response addressed the fifteen violations in the Notice of Violation.
23. On September 15, 2005, the DEQ air permit division deemed the GAMMAPAR Form 7 air permit application complete and on October 24, 2005, the DEQ issued an air permit to GAMMAPAR for the hot box.
24. The Department reviewed the September 2005 response letter and determined that GAMMAPAR had achieved compliance with thirteen of the fifteen alleged violations.
25. On March 27, 2006, GAMMAPAR submitted a revised Hazardous Waste Program document. The Department has determined that GAMMAPAR has achieved compliance with the violation cited in the Notice of Violation and Paragraph 14 of this section.
26. Department enforcement and compliance staff met with GAMMAPAR representatives on March 30, 2006. The representatives submitted documentation to address the violations listed in Paragraphs 7, 14, and 15 of this section. As a follow-up to the meeting, the representatives submitted additional documentation via fax on April 4, 2006. All the documentation submitted by GAMMAPAR asserts the position by GAMMAPAR that the alleged violations were less severe in nature than they appeared at the time of the inspection.

Section D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §10.1-1455 and upon consideration of Va. Code § 10.1-1186.2, the Board orders GAMMAPAR, and GAMMAPAR agrees, to perform the actions described below and in Appendices A of this Order. In addition, the Board orders GAMMAPAR, and GAMMAPAR voluntarily agrees, to pay a civil charge of **SEVENTEEN THOUSAND SEVEN HUNDRED DOLLARS (\$17,700)** in settlement of the violations cited in this Order.

1. GAMMAPAR shall pay **TEN THOUSAND DOLLARS (\$10,000)** of the civil charge 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," delivered to:

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

The payment shall include GAMMAPAR's Federal ID number.

2. GAMMAPAR shall satisfy **SEVEN THOUSAND DOLLARS (\$7,700)** of the civil charge upon completing the Supplemental Environmental Project ("SEP") described in Appendix A of this Order.

3. The net cost of the SEP to GAMMAPAR shall not be less than the amount set forth in Paragraph D.2. If it is, GAMMAPAR shall pay the remaining amount in accordance with Paragraph D. 1 of this Order, unless otherwise agreed to by the Department. "Net costs" means the costs of the project minus any tax savings, grants and first-year operation cost reductions or other efficiencies.

4. By signing this Order GAMMAPAR certifies that it has not commenced performance of the SEP before DEQ identified the violations in this Order and approved the SEP.

5. GAMMAPAR acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by GAMMAPAR to a third party, shall not relieve GAMMAPAR of its responsibility to complete the SEP as contained in this Order.

6. In the event it publicizes the SEP or the SEP results, GAMMAPAR shall state in a prominent manner that the project is part of a settlement for an enforcement action.

7. The Department has the sole discretion to:

a. Authorize any alternate SEP proposed by the Facility; and

b. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.

8. Should the Department determine that GAMMAPAR has not completed the SEP, or alternate SEP, in a satisfactory manner; the Department shall so notify GAMMAPAR in writing. Within 30 days of being notified, GAMMAPAR shall pay the amount specified in Paragraph 2 above as provided in Paragraph 1 above.

Section E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of GAMMAPAR, for good cause shown by GAMMAPAR, 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 GAMMAPAR on February 22, 2005. 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, GAMMAPAR admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. GAMMAPAR 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. GAMMAPAR 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 GAMMAPAR 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. GAMMAPAR 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. GAMMAPAR 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. GAMMAPAR 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.

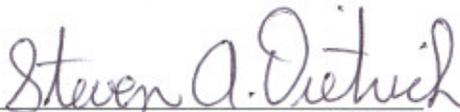
Failure to so notify the Director and the Director of the Department's West Central Regional Office within 24 hours of the commencement of the condition causing or anticipated to cause the delay or noncompliance shall constitute a waiver of any claim of inability to comply with a requirement of this 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 GAMMAPAR 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 GAMMAPAR. Notwithstanding the foregoing, GAMMAPAR agrees to be bound by any compliance date that precedes the effective date of this Order.

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13. By the signature of an authorized official below, GAMMAPAR voluntarily agrees to the issuance of this Order.
14. The undersigned representative of GAMMAPAR 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 GAMMAPAR to this Order. Any documents to be submitted pursuant to this Order shall be submitted by a responsible official of GAMMAPAR.

And it is so ORDERED this day of AUGUST 8, 2006.


Steven A. Dietrich, Regional Director
Department of Environmental Quality

GAMMAPAR LLC voluntarily agrees to the issuance of this Consent Order:


Denise D. Bellenger, COO for GAMMAPAR LLC

The foregoing instrument was acknowledged before me on _____

By Denise D. Bellenger, Chief Operating Officer, on behalf of GAMMAPAR LLC

in the County of Bedford, Commonwealth of Virginia.


Notary Public

My Commission expires: 3-31-2009



APPENDIX A – Supplemental Environmental Project (“SEP”)

GAMMAPAR shall perform the SEP identified below in the manner specified in this Appendix.

1. The SEP to be performed by GAMMAPAR is the installation of one bulk hazardous waste storage tank, associated infrastructure, and spill containment.
2. The SEP shall be completed within one year of the effective date of the Order.
3. GAMMAPAR shall verify in writing its progress in completing the SEP by providing the Department with progress reports and associated documentation. The SEP progress reports must be submitted to the Department on a quarterly basis, due the 10th day of each quarter (due dates being October 10th, January 10th, April 10th, and July 10th). The SEP’s completion verification must be submitted to the Department within one year of the effective date of the Order.
4. GAMMAPAR shall submit to the Department written verification of the final overall and net cost of the SEP in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation within 30 days of the project completion date. For the purposes of this submittal, net costs can be either the actual final net costs or the projected net costs if such projected net costs statement is accompanied by a CPA certification or certification from GAMMAPAR’s Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.
5. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

Jerry Ford, Jr., Enforcement Specialist-Senior
Department of Environmental Quality
West Central Regional Office
3019 Peters Creek Road
Roanoke, VA 24019