



# COMMONWEALTH of VIRGINIA

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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Director

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### **VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO MAUMEE EXPRESS, INC.**

#### **SECTION A: Purpose**

**This is a Consent Order issued under the authority of Va. Code §§ 10.1-1455 and 10.1-1184, between the Virginia Waste Management Board and Maumee Express, Inc., for the purpose of resolving certain violations of the Virginia Waste Management Act.**

#### **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 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. “Order” means this document, also known as a Consent Order.**
- 6. “Facility” means the Maumee Express, Inc. transport facility located at 26319 Old Trail Road, Abingdon, Virginia.**
- 7. “SWRO” means the Department’s Southwest Regional Office, located in Abingdon, Virginia.**

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

1. **Maumee Express, Inc. (“Maumee Express”) owns and operates a facility located at 26319 Old Trail Road, Abingdon, Virginia (“Facility”).**
2. **From the Facility, Maumee Express transports various drums, barrels, and other packages containing “hazardous waste”, as that term is defined in 40 CFR §261.3, to permitted hazardous waste treatment, storage and disposal facilities. In doing so, Maumee Express consolidates and temporarily stores hazardous waste at the Facility.**
3. **Maumee Express is a “transporter” of hazardous waste, as that term is defined in 40 CFR §260.10.**
4. **Pursuant to 9 VAC 20-60-260 and 40 CFR §263.12, transporters of hazardous waste may store manifested shipments of hazardous waste at a transfer facility for no more than 10 days without a permit.**
5. **On September 6, 2005, DEQ conducted a compliance evaluation inspection of the Facility.**
6. **During the inspection, DEQ reviewed, among other things, hazardous waste manifests that indicated that Maumee Express stored three separate shipments of hazardous waste for more than 10 days at the Facility, as evidenced by manifests identified as Manifest No.s 13043, 13053 and 00617.**
7. **Maumee Express does not have a permit from the DEQ to store hazardous waste for more than 10 days.**
8. **On September 13, 2005, DEQ met with Maumee Express. As a result of that meeting, on September 22, 2005, Maumee Express submitted a detailed report to DEQ describing the events related to storing hazardous waste for more than 10 days in connection with Manifest No.s 13043, 13053 and 00617.**
9. **At all relevant times, DEQ informed Maumee Express that 9 VAC 20-60-260 and 40 CFR §263.12 are aimed to ensure that hazardous waste in transport is properly managed to prevent releases. Maumee Express has provided certification that no release occurred from any of the containers represented by Manifest Nos. 13043, 13053 and 00617 during storage, inventory and/or consolidation at the Facility. Maumee Express has also provided documentation from the waste treatment, storage and disposal facilities to which Manifest No.s 13043, 13053 and 00617 were delivered that the containers represented by those manifests were received in good condition, with no evidence of release.**

10. **Maumee Express has indicated that it does not plan to apply for a permit to treat, store or dispose hazardous waste at the Facility. Maumee Express has informed DEQ that it has made administrative and personnel changes to ensure that it will not store hazardous waste in a manner contrary to 9 VAC 20-60-260 and 40 CFR §263.12.**

**SECTION D: Agreement and Order**

**Accordingly, the Virginia Waste Management Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders Maumee Express, Inc., and Maumee Express, Inc. agrees to pay a civil charge of \$3,150.00 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”, delivered to:**

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

**For purposes of properly identifying its payment, Maumee Express, Inc. shall include with the check a notification of its Registration Number, Federal Identification Number and the fact that payment is being made in accordance with the terms of this Order.**

**SECTION E: Administrative Provisions**

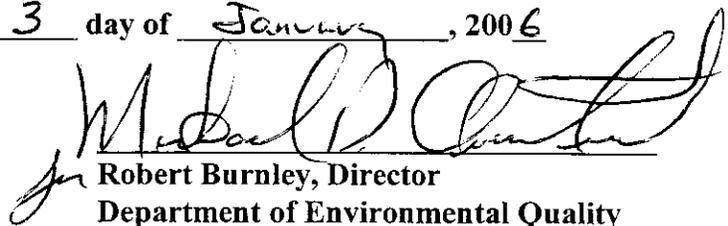
1. **The Board may modify, rewrite, or amend the Order with the consent of Maumee Express, Inc., for good cause shown by Maumee Express, Inc. or on its own motion after notice and opportunity to be heard.**
2. **This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or 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; and/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, Maumee Express, Inc. neither admits nor denies the jurisdictional allegations, factual findings, and conclusions of law contained herein.**

4. **Maumee Express, Inc. 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. **Maumee Express, Inc. declares it has received fair and due process under the Administrative Process Act, Codes §§ 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 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 Maumee Express, Inc. 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. **Maumee Express, Inc. 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 act of God, war, strike, or such other occurrence. Maumee Express, Inc. must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Maumee Express, Inc. shall notify the Director and the Director of the SWRO within 24 hours with a follow-up in writing within seven days 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 notify the Director, Southwest Regional Office of DEQ within 24 hours of learning of any condition listed above, which the Parties intend to assert will result in the impossibility of compliance, shall constitute 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 Maumee Express, Inc. 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 Maumee Express, Inc. Notwithstanding the foregoing, Maumee Express, Inc. 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 Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Maumee Express, Inc. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Maumee Express, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
13. The undersigned representative of Maumee Express, Inc. 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 Maumee Express, Inc. to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Maumee Express, Inc.
14. By its signature below, Maumee Express, Inc. voluntarily agrees to the issuance of this Order.

And it is ORDERED this 3 day of January, 2006

  
Robert Burnley, Director  
Department of Environmental Quality

Maumee Express, Inc. voluntarily agrees to the issuance of this Order.



Ron Potter  
Owner

Date: 11/16/05

Commonwealth of Virginia

City/County of Washington

The foregoing document was signed and acknowledged before me this 16th day of

Nov., 2005 by Ronald S. Potter, who is President  
(name) (title)

of Maumee Express, Inc., on behalf of Maumee Express, Inc.

Jedee B. Jessen  
Legislator Commissioner  
Jedee L. Belet  
Notary Public

My commission expires: Mar. 31, 2007