



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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### VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION

#### SPECIAL ORDER BY CONSENT

#### ISSUED TO

**POTOMAC LANDFILL, INC.**

#### FOR THE

**POTOMAC CDD LANDFILL  
(Solid Waste Permit No. 441)**

#### SECTION A: Purpose

This is a Consent Order issued under the authority of Section 10.1-1455 of the Code of Virginia between the Virginia Waste Management Board and Potomac Landfill, Inc., to resolve certain alleged violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations, and under the authority of Sections 10.1-1307D and 10.1-1185 of the Code of Virginia between the State Air Pollution Control Board and Potomac Landfill, Inc., for the purpose of resolving certain violations of the State Air Pollution Control Law and 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. "Boards" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia and described in Va. Code §§ 10.1-1401 and 10.1-1184, and the State Air Pollution Control Board a permanent collegial body of the Commonwealth of Virginia and described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the

Commonwealth of Virginia as described in § 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. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
7. "Facility" or "Landfill" means the Potomac Landfill which operates as a construction/demolition/debris landfill under Solid Waste Permit Number 441.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Potomac Landfill, Inc. owns and operates the Potomac Landfill which is located in Dumfries, Virginia.
2. The Virginia Waste Management Board has evidence to indicate that Potomac Landfill may have: (1) violated 9 VAC 20-80-260.C.4 by failing to conduct safety training; (2) violated 9 VAC 20-80-113 by failing to conduct unauthorized waste training; (3) violated 9 VAC 20-80-260.C.11 by failing to apply adequate cover; (4) violated 9 VAC 20-80-240.B and 9 VAC 20-80-480.A by operating a materials recovery process for incoming waste without obtaining a permit; (5) violated 9 VAC 20-80-260.C.3 by failing to control dust and odors; and (6) violated 9 VAC 20-80-290.A by failing to supply adequate design plans for the facility's pretreatment system. DEQ issued Notices of Violation for these alleged violations on November 24, 2003 and March 24, 2004.
3. The State Air Pollution Control Board has evidence to indicate that Potomac Landfill may have violated 9 VAC 5-40-150 by emitting odors into the atmosphere that were objectionable to individuals of ordinary sensibility. DEQ issued a Notice of Violation regarding this allegation on March 15, 2004.
4. Potomac Landfill has asserted that in response to the NOV's that they have conducted the required safety and unauthorized waste training, applied adequate cover, and taken measures to reduce odors at the facility. Further, the facility believes that the materials recovery activity is allowed.
5. In May 2003 DEQ Air Compliance staff began an investigation of odors at the Potomac Landfill in response to citizen complaints. The presence of strong odors, similar to rotten eggs was confirmed by several site visits throughout the summer of 2003. The smell of rotten eggs is often associated with the generation of landfill gas containing hydrogen sulfide (H<sub>2</sub>S).

6. On November 20, 2003, DEQ held a public hearing to gather comments on the odor issue. Fourteen of twenty-five citizens who spoke at the hearing complained of longstanding and persistent odors from the landfill. Additionally the Department conducted ambient air sampling near the landfill boundary from December 18, 2003 through January 18, 2004. This sampling showed that ambient concentrations of H<sub>2</sub>S regularly exceeded the odor threshold. An NOV was issued for violation of the air odor rule on March 15, 2004.
7. In July 2003 DEQ was notified that the facility had modified its operations to recover and recycle materials (cardboard, metal, wood, etc.) from incoming waste, including the construction of a concrete pad where the waste was processed. These material recovery operations are not authorized by the facility's current permit. The facility had submitted a minor permit amendment application in December 2002 (the application was subsequently amended in January 2003 and October 2003) for the materials recovery operation, however the application was denied by DEQ because the Department has determined that this change in operation resulted in a substantially different type of facility. Thus the landfill is required to obtain a new permit rather than a minor permit amendment.
8. The unpermitted materials recovery activity continued to occur after DEQ cited it in inspection reports and NOV's dated November 24, 2003 and March 24, 2004.
9. Inspections of the facility conducted on August 4, 2003, September 5, 2003, and November 24, 2003 found that no records were available to document unauthorized waste or safety training had been held for facility employees. The facility's permit requires records of all personnel training to maintained at the facility.
10. Inspections of the facility conducted on August 4, 2003, September 5, 2003, and November 24, 2003 found that the facility had failed to maintain a minimum one-foot thick weekly cover in violation of 9 VAC 20-80-260.C.1.
11. Potomac Landfill built a pretreatment system in April 2003 to treat leachate prior to discharging to the local sewer system. The landfill submitted a revised operating plan for the pretreatment system which was found to be inadequate by DEQ because it did not include all of the information required by 9 VAC 20-80-290. DEQ included this issue as an Area of Concern in an inspection report issued November 24, 2003 and requested that an updated plan be submitted by December 19, 2003. This was cited as an alleged violation in the March 24, 2004 NOV because the revised plan had not been submitted.
12. Potomac Landfill has submitted a plan, incorporated in this Order as Appendix A, to achieve full compliance with permit and regulatory requirements. Under the terms of this Order, Potomac Landfill may engage in materials recovery activities in connection with its incoming waste stream in accordance with 9 VAC 20-80-360, and engage in landfill mining to recover recyclable/reusable materials in accordance with 9 VAC 20-80-460. The

ultimate purpose of the Order is to have all solid waste removed from the landfill and the landfill properly closed by December 31, 2010. Potomac Landfill asserts that its goal is to redevelop the landfill property so that it will become more of an economic asset to the Town of Dumfries.

#### **SECTION D: Agreement and Order**

Accordingly the Virginia Waste Management Board, by virtue of the authority granted it in Va. Code §§ 10.1-1182 *et seq.* and §§ 10.1-1402, 10.1-1405, and 10.1-1455, and the State Air Pollution Control Board by virtue of the authority granted it in Va. Code § 10.1-1316 order Potomac Landfill, Inc. and Potomac voluntarily agrees that:

1. Potomac Landfill, Inc. shall perform the actions described in Appendix A to this Order to remedy the alleged violations described above and bring the facility into compliance with the Regulation.
2. Potomac Landfill, Inc. shall pay a civil charge of \$23,900 within 30 days of the effective date of the Order in settlement of the alleged 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

Either on a transmittal letter or as a notation on the check, Potomac Landfill, Inc. shall indicate that this payment is submitted pursuant to this Order and shall include the Federal Identification Number for Potomac Landfill, Inc.

#### **SECTION E: Administrative Provisions**

1. Either of the Boards may modify, rewrite, or amend those portions of the Order within that Board's respective jurisdiction with the consent Potomac Landfill, Inc., for good cause shown by Potomac Landfill, Inc., 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 Notices of Violation issued November 24, 2003, March 15, 2004, and March 24, 2004 as listed above in Section C. This Order shall not preclude either of the Boards 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, Potomac Landfill, Inc. admits the jurisdictional allegations, and does not admit factual findings and conclusions of law contained herein.
4. Potomac Landfill, Inc. consents to venue in the Circuit Court of Prince William County for any civil action taken to enforce the terms of this Order.
5. Potomac Landfill, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code § § 2.2-4000 *et seq.*, the Virginia Waste Management Act, and the State Air Pollution Control Law, 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 either of the Boards to enforce this Order.
6. Failure by Potomac Landfill, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Boards. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by either of the Boards 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. Potomac Landfill, 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 acts of God, war, strike, or such other occurrence. Potomac Landfill, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Potomac Landfill, Inc. 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.

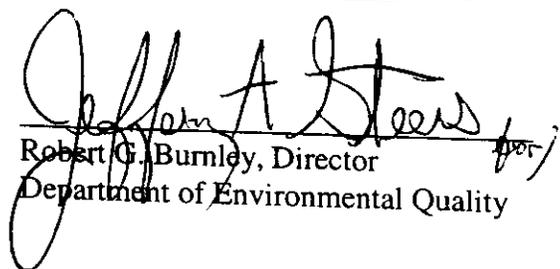
Such notice shall set forth:

- 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 Potomac Landfill, Inc. 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 both the Director or his designee and Potomac Landfill, Inc. Notwithstanding the foregoing, Potomac Landfill, Inc. 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 the Boards terminate the Order in his or their sole discretion upon 30 days written notice to Potomac Landfill, Inc. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Potomac Landfill, Inc. 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, Potomac Landfill, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of MARCH 10, 2005.

  
Robert G. Burnley, Director  
Department of Environmental Quality

Potomac Landfill, Inc. voluntarily agrees to the issuance of this Order.

By:   
Mack S. Crippen  
Potomac Landfill, Inc.

Date: 1/25/05

Commonwealth of Virginia  
City/County of Prince William

The foregoing document was signed and acknowledged before me this 25<sup>th</sup> day of January, 2004, by Mack S. Crippen, who is Chairman of Potomac Landfill, Inc., on behalf of said company.

Kelly S. Dettre / Kelly S. Ship *notarized as*  
Notary Public

My commission expires: 6/30/05

## APPENDIX A SCHEDULE OF COMPLIANCE

1. Potomac Landfill will implement the following measures to control odors immediately:
  - A. Refrain from excavating waste until the Department has approved an odor control plan for that activity.
  - B. Separate any incoming material that contains gypsum for off-site disposal. Gypsum-containing material will be kept dry and removed from the landfill within 30 days.
  - C. Maximize compaction within the landfill by reducing the creation of voids. This will be accomplished by removing non-compactable items, including steel, wood products, concrete, plastics, tires, mattresses, and cardboard, and disposing of this material off-site.
  - D. Maximize compaction by spreading waste uphill whenever possible, spreading waste in 4 to 6 inch layers, and building the workface at 4 to 1 and 3 to 1 slopes.
  - E. Apply cover to the working face weekly. Twelve inches of compacted soil that is primarily clay will be applied in two layers of six inches each. No processed waste or gypsum will be included in the cover material. If odors persist daily cover will be applied.
  - F. Grade the slopes to prevent standing water and improve surface water runoff.
  - G. The entire site will be inspected by landfill employees at least 3 times per day (between 4:00AM and 6:00AM, between 12:00PM and 2:00PM, and between 8:00PM and 10:00PM) for the presence of objectionable odors. Records of these inspections will be kept in the facility's daily operations log including the name of facility personnel conducting the inspection, time of inspection, and results.
  
2. Potomac Landfill will submit an odor monitoring plan to DEQ by December 23, 2004. At a minimum the plan will include the following:
  - A. Monitoring equipment will be used that is calibrated to detect ambient hydrogen sulfide concentrations down to 0.01 ppm.
  - B. Readings will be taken at specified locations around the landfill.
  - C. Readings will be taken at all locations at least 3 times per day. (Readings must be taken between 4:00AM and 6:00AM, between 12:00PM and 2:00PM, and between 8:00PM and 10:00PM. If the readings are taken by an automated monitoring device then the last daily reading must occur between 10:00PM and 12:00AM.)
  - D. Monitoring results will be kept in the landfill's operating record and results will be submitted to DEQ on a monthly basis.
  - E. Potomac Landfill will notify DEQ within 24 hours of any hydrogen sulfide reading that exceeds 0.03 ppm.

Potomac Landfill will implement the odor monitoring plan within 14 days of DEQ approval. Upon implementation of the odor monitoring plan, Potomac Landfill will be relieved of the obligation to comply with Section 1.G of this Appendix.

3. Potomac Landfill will not engage in any materials recovery activity relating to incoming waste except in accordance with the facility's Solid Waste Facility Permit and the provisions of this Order, including Section 1.C of this Appendix.
4. Potomac Landfill will submit a notice of intent to obtain a Permit-By-Rule to operate a materials recovery facility, in accordance with 9 VAC 20-80-485.A.2.a., by March 15, 2005. Potomac Landfill will not operate the new materials recovery facility until all of the requirements of 9 VAC 20-80-485 are met.
5. By December 23, 2004, Potomac Landfill will submit a major permit amendment request to excavate all waste from the landfill. The amendment request will include the following:
  - A. An updated operations manual to address the procedure for processing, recovery, or disposal of the excavated waste.
  - B. An updated contingency plan to address potential emergencies at the facility.
  - C. Updated closure and post-closure care plans, including revised financial assurance calculations.
6. Potomac Landfill will stop landfilling incoming waste by January 1, 2007.
7. Potomac Landfill will remove all waste and close the landfill by December 31, 2010.
8. Potomac Landfill will submit complete leachate pretreatment information in accordance with 9 VAC 20-80-290 by October 31, 2004.
9. Potomac Landfill will control dust at the facility so that it does not constitute a nuisance or hazard.
10. Potomac Landfill will conduct unauthorized waste training and safety training in accordance with the Virginia Solid Waste Management Regulations and the facility permit. Records of such training will be kept at the facility.