

**WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
SAMPSON COATING, INC.
EPA ID No. VAD003109600**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Sampson Coatings Inc., for the purpose of resolving certain violations of environmental law and/or 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. “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 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. "Sampson Coatings" means Sampson Coatings Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means the Sampson Coatings Inc. facility located at 301 Hull Street, Richmond, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "VHWMR" means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 *et seq.*
10. "Off specification" means the paint and paint products that were not sold as originally intended and were placed in storage for further resell, use, recycle, or disposal.

SECTION C: Findings of Fact and Conclusions of Law

1. Sampson Coatings owns and operates a paint manufacturing facility in Richmond, Virginia.
2. On February 21, 2002, DEQ conducted an inspection of Sampson Coatings. Based upon the observations of the inspection, DEQ issued Notice of Violation (NOV) No. 2002-04-PRO-601 on April 15, 2002 for violations of the contingency plan; training; record keeping; reporting; and hazardous waste management.
3. On May 9, 2002, the facility met with the Department to discuss the above violations.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders Sampson Coatings, and Sampson Coatings agrees to pay a civil charge of \$6,900 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" and shall be 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, Sampson Coatings shall: 1) indicate that the check is submitted pursuant to this Order, and 2) include its Federal Identification Number.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Sampson Coatings, for good cause shown by Sampson Coatings, 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 Notice of Violation issued to Sampson Coatings by DEQ on April 15, 2002. 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. For purposes of this Order and subsequent actions with respect to this Order, Sampson Coatings admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Sampson Coatings 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. Sampson Coatings declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the 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 Sampson Coatings 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. Sampson Coatings 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. Sampson Coatings shall show that such circumstances were beyond its control and not due to a lack

of good faith or diligence on its part. Sampson Coatings 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 the parties intend 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 Sampson Coatings. Notwithstanding the foregoing, Sampson Coatings agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall terminate effective upon the Department's receipt of the payment described herein. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Sampson Coatings 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, Sampson Coatings voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2002.

Robert G. Burnley, Director
Department of Environmental Quality

Sampson Coatings voluntarily agrees to the issuance of this Order.

Date: _____

By: _____

Mark Stewart
General Manager

Commonwealth of Virginia

City/County of _____

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

_____, 2002, by _____, who is

(Name)

_____ of Sampson Coatings, on behalf of the Corporation.

(Title)

Notary Public

My commission expires: _____.

Appendix A

Sampson Coating shall:

1. Sampson Coatings shall not treat, store, or dispose of hazardous waste at its facility in Richmond, Virginia, nor at any other facility owned, leased, or otherwise controlled by Sampson Coatings within the Commonwealth, except as specifically provided in the VHWMR, unless Sampson Coatings has applied for and been granted a hazardous waste management facility permit under 9 VAC 20-60-970 – 980, or has been granted an emergency hazardous waste management permit under 9 VAC 20-60-1050.A. for such activity.
2. Submit to the Department an updated contingency plan in accordance with 40 CFR 264.50-56 within 30 days of execution of this Order.
3. Submit to the Department records that indicate Sampson Coatings has attempted to make arrangements with the local authorities to familiarize them with the emergency response procedures and operations at the facility as specified in 40 CFR 264.37.
4. Submit to the Department an updated training plan meeting the requirements of 40 CFR 264.16 within 90 days of execution of this Order.
5. Submit to the Department an inventory management plan designed to prevent speculative accumulation as defined in 40 CFR 261.1(c)(8) within 30 days of execution of this Order.
6. Submit to the Department records documenting that all off specification paint accumulated prior to January 1, 2002, is recycled or removed from the facility no later than August 9, 2002.
7. Submit all documents pertaining to the above requirements of Appendix A, to the attention of:

Vernon C. Williams
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060