



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

www.deq.virginia.gov

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

Gerard Seeley, Jr.
Regional Director

WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Lumber Liquidators, Inc. EPA ID Number VAR000501163

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Lumber Liquidators, Inc. for the purpose of addressing certain alleged violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management 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. “Lumber Liquidators” means Lumber Liquidators, Inc., a corporation certified to do business in Virginia and its affiliates, subsidiaries, and parents.
7. “Facility” means the Lumber Liquidators, Inc. manufacturing facility located at 1104 W. Roslyn Road, Colonial Heights, 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.*

SECTION C: Findings of Fact

1. Lumber Liquidators owns and operates a hardwood floor manufacturing facility in Colonial Heights, Virginia. This facility is a large quantity generator of hazardous waste.
2. On October 29, 2003, DEQ issued a Consent Order to Lumber Liquidators to resolve violations documented in a Notice of Violation (NOV # 2003-04-PRO-602) dated April 10, 2003. This Consent Order is still open.
3. On March 3, 2004, DEQ conducted an inspection of Lumber Liquidators. The following violations were noted during the inspection:
 - Failure to determine if a generated waste is a hazardous waste.
 - Failure to submit exception reports for discrepancies in manifests.
 - Allowing hazardous waste to be transported by a transporter without a permit or EPA ID number.
 - Failure to look for leaks and/or deterioration caused by corrosion or other factors when conducting weekly inspections of the less than 90-day container storage area.
 - Failure to properly prepare manifests.
 - Failure to amend list of facility emergency coordinators and notify local authorities of change.
 - Failure to indicate the appropriate treatment standard on the Land Disposal Restriction forms for two shipments of hazardous waste.
4. On June 29, 2004, a Notice of Violation (NOV) No. 2004-06-PRO-603 was issued for the above violations.
5. On July 16, 2004, the facility met with DEQ to discuss this NOV. At this meeting, it was determined that these violations are already being addressed

through the Schedule of Compliance in the open Consent Order, dated October 29, 2003.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted in Va. Code § 10.1-1455 orders Lumber Liquidators and Lumber Liquidators voluntarily agrees to pay a civil charge of \$7,980 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. When making payment, Lumber Liquidators shall reference this Order and shall include its Federal Identification Number. Payment shall be made by check payable to the "Treasurer of Virginia," deliverable 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 Lumber Liquidators, for good cause shown by Lumber Liquidators, 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 Lumber Liquidators by DEQ on June 29, 2004. 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, Lumber Liquidators admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Lumber Liquidators 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. Lumber Liquidators declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *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 Lumber Liquidators 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. Lumber Liquidators 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. Lumber Liquidators shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Lumber Liquidators 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 of inability to comply with a requirement of this Order.

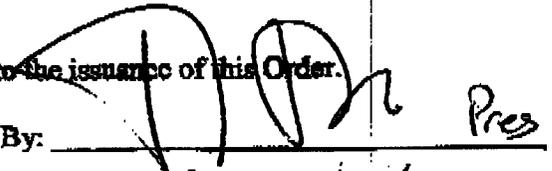
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Lumber Liquidators. Notwithstanding the foregoing, Lumber Liquidators agrees to be bound by any compliance date which precedes the effective date of this Order.

- 11. This Order shall terminate upon payment of the civil charge required by Section D of this Order. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Lumber Liquidators 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, Lumber Liquidators voluntarily agrees to the issuance of this Order.

And it is so ORDERED this ^{19th} ~~24th~~ day of ^{October} ~~September~~, 2004. (S)


Robert G. Burnley, Director
Department of Environmental Quality

Lumber Liquidators, Inc. voluntarily agrees to the issuance of this Order.

By:  Pres
Date: Feb 18/04

Commonwealth of Virginia
City/County of Colonial Heights

The foregoing document was signed and acknowledged before me this 8th day of September, 2004, by Steven Dean Barker on behalf
(name)

of Lumber Liquidators, Inc.


Notary Public



My commission expires: March 31, 2006