COMMONWEALTH of VIRGINIA

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO COLUMBIA FOREST PRODUCTS CORPORATION FOR COLUMBIA FOREST PRODUCTS CHATHAM, VA FACILITY EPA ID No. VAR000521146

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Columbia Forest Products Corporation, regarding the Columbia Forest Products Chatham, Virginia facility, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.

2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Lynchburg, Virginia.

3. "CESQG" means a conditionally exempt small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-80-120(A).

4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

7. "Facility" means the Columbia Forest Products Corporation's Chatham, Virginia Facility located at 100 Paul Road in Chatham, Virginia.

8. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.

9. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.

10. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).

11. "CFP" means Columbia Forest Products Corporation, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. CFP is a "person" within the meaning of Va. Code § 10.1-1400.

12. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

13. "Order" means this document, also known as a "Consent Order" or "Order by Consent."

14. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.

15. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.

16. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).

17. "Va. Code" means the Code of Virginia (1950), as amended.

18. "VAC" means the Virginia Administrative Code.

19. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

20. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

SECTION C: Findings of Fact and Conclusions of Law

1. CFP owns and operates the Facility in Chatham, Virginia. The Facility manufactures hardwood veneered plywood. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.

2. CFP submitted an initial RCRA Subtitle C Site Identification Form (received 01/24/2012) that gave notice of regulated waste activity at the Facility as a SQG of hazardous waste (Waste types D001 and D003). CFP was issued EPA ID No. VAR000521146for the Facility. In a subsequent form (received 11/27/2012), CFP gave notice as a CESQG of hazardous waste (Waste type D001).

3. At the Facility, CFP generates waste UV solvent from the UV Coating Line, which is a solid waste. Waste UV solvent is also a hazardous waste – a D001 and F003 listed waste. This hazardous waste is accumulated in 55-gallon drums at the Facility after its generation.

4. On November 1, 2012, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

5. At the time of the inspection, twenty (20) 55-gallon drums of D001/F003 hazardous waste were observed in the accumulation area. Twelve (12) of the twenty (20) drums of hazardous waste had been accumulating on-site for longer than 270 days. The disposal facility, GRR-Sumter, Inc., is located more than 200 miles from the facility; therefore small quantity generators may accumulate hazardous waste up to 270 days. According to the accumulation start dates observed on the 12 drums, the drums had been accumulated between 275 and 358 days, depending on the generation date. 40 CFR 262.34(e) allows a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that he complies with the requirements of paragraph (d) of 40 CFR 262.34.

6. On April 5, 2012, CFP shipped twenty-four (24) 55-gallon drums of D001/F003 hazardous waste. After the shipment, twenty (20) drums of D001/F003 hazardous waste remained on-site and were observed in accumulation at the time of this inspection. All of these drums were marked with accumulation start dates that precede April 5, 2012. Based on shipping documents and observations made during this inspection, CFP appears to have accumulated on-site 44 drums of hazardous waste approximately equating to 19,360 lbs. (44 drums x 440 lbs./drum). SQGs are allowed to accumulate up to 13,227 lbs of hazardous waste without a permit. 40 CFR 262.34 (d)(1) allows a small quantity generator (SQG) to accumulate hazardous waste on-site for 180 days (or 270 days if transporting 200 miles or more) or less without a permit provide that the quantity of waste accumulated on-site never exceeds 6,000 kilograms (13,227 lbs.).

7. By accumulating in excess of the 6,000 kg allowable for Small Quantity Generators, and by accumulating hazardous waste in excess of 270 days, the facility was no longer excluded from the requirement to obtain a permit for hazardous waste storage provided by the exclusion listed in 40 CFR 270.1(c)(2)(i). Without the exclusion, the facility was required to obtain a permit for storage of hazardous waste (in excess of 270 days and in excess of 6,000 kg). 40 CFR 270.1(c) requires generators who store hazardous waste are required to obtain a hazardous waste permit.

8. CFP was accumulating spent 4 ft. and 8 ft. fluorescent lamps in the upper level storage area. The lamps were not being kept in structurally sound containers to protect them from breakage. 40 CFR 273.13(d)(1) requires that a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

9. The Universal Waste – Lamps were not labeled with the words "Universal Waste – Lamps", "Used Lamps", or "Waste Lamps". 40 CFR 273.14(e) requires that each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste – Lamps", "Used Lamps", or "Waste Lamps".

10. On December 6, 2012, based on the inspection and follow-up information, the Department issued Notice of Violation No. NOV-12-11-BRRO-L-001to the CFP for the violations described in paragraphs C(5) through C(9) above.

11. On December 13, 2012, CFP submitted a written response to the NOV and the written response contained the following items regarding the violations in the NOV.

12. Immediately following the November 1, 2012 inspection, CFP contracted with Univar and had all remaining hazardous waste drums related to the waste UV solvent shipped offsite for proper disposal. This shipment occurred on November 6, 2012 and CFP provided a copy of the manifest. CFP no longer generates the UV solvent waste stream; CFP switched to a glycol ether-based solvent in March 2012.

13. Immediately following the inspection, CFP purchased structurally sound containers to store the spent fluorescent lamps. The container is properly labeled and dated. The submittal contained pictures of the containers and labeling.

14. Based on the results of the November 1, 2012 inspection, the Board concludes that CFP has violated 40 CFR 262.34(e), 40 CFR 262.34 (d)(1), 40 CFR 270.1(c), 40 CFR 273.13(d)(1), and 40 CFR 273.14(e), as described in paragraphs C(5) through C(9), above.

15. CFP has submitted documentation that verifies that the violations described in paragraphs C(5) through C(9), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders CFP, and CFP agrees to pay a civil charge of **$9,012.50** 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, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

CFP shall include its Federal Employer Identification Number (FEIN) 54-0788268 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of CFP for good cause shown by CFP, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. 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; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, CFP admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. CFP 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. CFP declares it has received fair and due process under the Administrative Process Act 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 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 modify, rewrite, amend, or enforce this Order.

6. Failure by CFP 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. CFP 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 unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. CFP shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. CFP shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days 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 verbally within 24 hours and in writing within three business days, 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 and any 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 CFP.

11. This Order shall continue in effect until:

    a. The Director or his designee terminates the Order after CFP has completed all of the requirements of the Order;

    b. CFP petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

    c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to CFP.

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve CFP from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by CFP 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.

13. The undersigned representative of CFP 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 CFP to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of CFP.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, CFP voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2013.

_____
Robert J. Weld, Regional Director
Department of Environmental Quality

Columbia Forest Products Corporation voluntarily agrees to the issuance of this Order.

Date: 5/2/13 By: _____, President
Bradley L. Thompson
Columbia Forest Products Corporation

~~Commonwealth of Virginia~~ NC
City/County of Guilford

The foregoing document was signed and acknowledged before me this 2 day of May, 2013, by Bradley L. Thompson who is President of Columbia Forest Products Corporation, on behalf of the corporation.

Linda H. Mason
Notary Public

_____
Registration No.

My commission expires: Feb 25, 2018

Notary seal:

LINDA H MASON
Notary Public
Guilford County
North Carolina
My Commission Expires Feb 25, 2018