



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Blue Ridge Regional Office

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**VIRGINIA WASTE MANAGEMENT BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
HUGH'S BODY SHOP, INCORPORATED  
FOR  
HUGH'S BODY SHOP  
EPA ID No. VAR000528497**

#### **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 Hugh's Body Shop, Incorporated 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. "Administrative Process Act" or "APA" means Chapter 40 (§ 2.2-4000 *et seq.*) of Title 2.2 of the Va. Code.
2. "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.
3. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

5. "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled, as defined by 40 CFR § 260.10.
6. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
7. "Designated Facility" means (1) A hazardous waste treatment, storage, or disposal facility which: (i) has received a permit (or interim status) in accordance with the requirements of 40 CFR Parts 270 and 124; (ii) has received a permit (or interim status) from a State authorized in accordance with 40 CFR Part 271; or (iii) is regulated under 40 CFR § 261.6(c)(2) or 40 CFR § 266, Subpart F; and (iv) that has been designated on the manifest by the generator pursuant to 40 CFR § 262.20.
8. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
9. "Facility" or "Site" means Hugh's Body Shop, located at 452 Roanoke Road in Daleville, Virginia.
10. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
11. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
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.
14. "HBS" means Hugh's Body Shop, Incorporated, a corporation authorized to do business in Virginia and its members, affiliates, partners, subsidiaries, and parents. HBS is a "person" within the meaning of Va. Code § 10.1-1400.
15. "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 effective 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.
16. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.

17. "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).
18. "Storage" means the holding of solid or hazardous waste for a temporary period, at the end of which the waste is treated, disposed of, or stored elsewhere, as defined by 40 CFR § 260.10 and 9 VAC 20-81-10, as applicable.
19. "Va. Code" means the Code of Virginia (1950), as amended.
20. "VAC" means the Virginia Administrative Code.
21. "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.

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

1. HBS owns and operates the Facility, which is located in Daleville, Virginia. HBS generates hazardous waste at the Facility. The Facility performs automobile, tractor, RV, and heavy duty vehicle maintenance, repair, collision repair, towing, and environmental remediation services related to traffic accidents/spills. Operations at this site are subject to the Virginia Waste Management Act and the Regulations.
2. HBS submitted a RCRA Subtitle C Site Identification Form for the Facility dated June 2, 2014 that gave notice of regulated activity at the Facility as a SQG of hazardous waste. HBS was issued EPA ID No. VAR000528497 for the Facility.
3. At the Facility, HBS generates solid wastes which are also hazardous wastes. Hazardous wastes generated at the Facility include wastes with the following waste codes: D001, D008, D035, F003 and F005 as described in 40 CFR § 261.21. These hazardous wastes are accumulated in containers at the Facility after generation.
4. On May 22, 2014, DEQ-BRRO staff inspected the Facility for compliance with the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, the Department made the following observations:
  - a. Based upon the fact that HBS shipped 400 pounds of hazardous waste on October 9, 2013 and 600 pounds of hazardous waste on November 21, 2013, HBS became a SQG during November 2013, but did not submit an initial notification of regulated activity and obtain an EPA ID number.
  - b. HBS offered hazardous waste for transportation without a manifest for shipments on November 21, 2013 and July 23, 2014.

- c. HBS did not specify a Designated Facility on a manifest for shipments on November 21, 2013 and July 23, 2014.
  - d. HBS did not have documentation that land disposal restriction forms were used with its hazardous waste shipments on November 21, 2013 and July 23, 2014.
  - e. Emergency contact information and locations of fire extinguishers, fire alarms, and spill control equipment were not posted near the facility phones.
  - f. The containers of solvent-based paint waste were not clearly marked with the date that accumulation began or the words "hazardous waste."
  - g. The waste paint drum was not closed.
  - h. Portable used oil containers were not clearly marked with the words "used oil."
5. 40 CFR § 262.12(a) states that a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.
  6. 40 CFR § 262.20(a)(1) requires that hazardous waste generators who transport, or offer for transport a hazardous waste for offsite treatment, storage, or disposal prepare a manifest in accordance with the requirements of Appendix to 40 CFR Part 262.
  7. 40 CFR § 262.20(b) requires that generators of hazardous waste designate on the manifest one facility which is permitted to handle the waste described on the manifest.
  8. 40 CFR § 268.7(a)(2) requires generators to submit land disposal restriction forms to each treatment or storage facility receiving the waste and place a copy in the generator's file.
  9. 40 CFR § 262.34(d)(5)(ii) requires generators of hazardous waste to post emergency contact information near facility phones.
  10. 40 CFR § 262.34(d)(4) requires SQGs to comply with paragraphs (a)(2) and (a)(3) of 40 CFR § 262.34.
  11. 40 CFR § 262.34(a)(2) requires that generators of hazardous waste to clearly mark the date upon which each period of accumulation begins on each container.
  12. 40 CFR § 262.34(a)(3) requires that generators of hazardous waste mark hazardous waste containers with the words "Hazardous Waste".
  13. 40 CFR § 265.173(a) requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

14. 40 CFR § 279.22(c) requires that containers and aboveground tanks used to store used oil be labeled or clearly marked with the words "used oil."
15. On August 15, 2014, based on the inspection and follow-up information, the Department issued NOV No. 14-08-BRRO-001 to HBS for the violations described in Paragraph C(4) above.
16. On August 25, 2014, HBS submitted a written response to the NOV.
17. On November 4, 2014, DEQ staff inspected HBS and discussed the violations specified in the NOV. This inspection, along with documentation previously submitted by HBS, verifies that the violations observed during the May 22, 2014 inspection have been corrected.
18. Based on the results of the May 22 and November 4, 2014 inspections and the documentation submitted by HBS, the Board concludes that HBS has violated 40 CFR § 262.12(a), 40 CFR §262.20(a)(1), 40 CFR §262.20(b), 40 CFR §268.7(a)(2), 40 CFR §262.34(d)(5)(ii), 40 CFR 262.34(d)(4), 40 CFR §262.34(a)(2)&(3), 40 CFR §262.173(a), and 40 CFR §279.22(c) as described in paragraph C(4), above.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Hugh's Body Shop, Incorporated, and Hugh's Body Shop, Incorporated agrees to pay a civil charge of \$5,110 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

HBS shall include its Federal Employer Identification Number (FEIN) (27-008-9878) 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 HBS for good cause shown by HBS, 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, HBS admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. HBS 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. HBS declares that 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 HBS 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. HBS 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. HBS shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. HBS 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 HBS 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 HBS.
- 11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after HBS has completed all of the requirements of the Order;
  - b. HBS 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 HBS.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve HBS 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 HBS 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 HBS 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 HBS to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of HBS.

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, HBS voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Robert J. Weld, Regional Director  
Department of Environmental Quality

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Hugh's Body Shop, Incorporated voluntarily agrees to the issuance of this Order.

Date: 12-11-14 By: [Signature]

Commonwealth of Virginia  
City/County of Botetourt

The foregoing document was signed and acknowledged before me this 11<sup>th</sup> day of  
12/11/2014, by Steve Simmons

[Signature]  
Notary Public

051404240  
Registration No.

My commission expires: 1/31/18

Notary seal:

PAY TO THE ORDER OF  
BB&T (BRANCH BANKING & TRUST)  
051404260  
FOR DEPOSIT ONLY  
BOBCAT VENDING  
0000166011100