COMMONWEALTH of VIRGINIA

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO DOMINION PACKAGING, INC. EPA ID No. VAD980714588

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 Dominion Packaging, Inc., 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. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

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, as described in Va. Code § 10.1-1185.

5. "Dominion " means Dominion Packaging, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Dominion is a "person" within the meaning of Va. Code § 10.1-1400.

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

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

8. "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).

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

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

11. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

12. "Site" or "Facility" means the Dominion Packaging, Inc. rotogravure printing facility located at 3001 Cofer Road, Richmond City, Virginia.

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

14. "VAC" means the Virginia Administrative Code.

15. "VHWMR" or "Regulations" 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.

16. "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. Dominion owns and operates a rotogravure printing facility in Richmond, Virginia. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.

2. Dominion submitted a RCRA Subtitle C Site Identification Form (received January 5, 2005) that gave notice of regulated waste activity at the Facility as an LQG of hazardous waste. Dominion was issued EPA ID No. VAD980714588 for the Facility.

3. At the Facility, Dominion generates used solvents, sludge and printing ink containing isopropyl acetate, N-propyl acetate, toluene, 2-ethylhexyl acetate, and N-methyl-2-pyrrolidone, which are solid wastes. Isopropyl acetate, N-propyl acetate, and toluene are also listed hazardous wastes with waste codes F003 and F005, as described in 40 CFR § 261.31, and are ignitable characteristic wastes with waste code D001 as described in 40 CFR §261.21. 2-ethylhexyl acetate and N-methyl-2-pyrrolidone are ignitable characteristic wastes with waste code D001, as described in 40 CFR §261.21. This hazardous waste is accumulated in containers at the Facility after its generation.

4. On January 6, 2010, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. During the inspection Dominion informed the Department that in November 2008 it started shipping material that had been previously managed as hazardous waste as recyclable material to an in-state recycler. Based on the inspection and follow-up information, Department staff made the following observations:

   a. Dominion shipped approximately 11 shipments of hazardous waste originating from Dominion without hazardous waste manifests from November 20, 2008 through November 11, 2009. 40 CFR §262.20 requires that a generator that offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal, must prepare a Manifest on EPA Form 8700-22.

   b. Twenty-four 55-gallon drums of spent solvent and still bottoms located in the hazardous waste accumulation area and one 55-gallon drum of spent solvent located adjacent to Press 1 were not labeled or marked with the words "Hazardous Waste". 40 CFR §262.34(a)(3) requires that while being accumulated on-site, each container and tank is labeled or marked clearly with the words, ``Hazardous Waste". 40 CFR §262.32(b) requires generators to mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR §172.304: HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency. Generator's Name and Address _____. Generator's EPA Identification Number _____. Manifest Tracking _____.

   c. Dominion's 2008 land disposal restriction notification records (LDR) document that the spent solvent waste streams do not meet treatment standards for land disposal. Dominion did not send LDR notifications for spent solvent shipped to the in-state recycling facility from November 20, 2008 to November 11, 2009. 40 CFR §268.7(a)(2) requires that if the waste or contaminated soil does not meet the

treatment standards, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file.

d. Facility personnel placed spent solvent from Presses 1, 2, and 3 into the 55-gallon drum located east of Press 1 near the set up area. This drum was on the side of Press 1 away from the other presses and was not visible from Presses 2 and 3. Dominion had been managing the drum as a satellite accumulation area, but it did not appear to be at or near the point of generation for Presses 2 and 3. Records indicated that Dominion did not notify the Department of the location of this accumulation area. 40 CFR §262.34(c)(1) allows a generator to accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in Sec. 261.33(e) in containers at or near any point of generation where wastes initially accumulate. 9 VAC 20-60-262.B.4 requires that for accumulation areas established after March 1, 1988, [the generator] shall notify the department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR §262.34 prior to or immediately upon the establishment of each accumulation area.

e. Lids were sitting loosely on top of four 55-gallon drums in the wash-up hazardous waste satellite accumulation areas and the 55-gallon drum in the Press 1 hazardous waste accumulation area. Although not observed, Facility personnel reported during the inspection that normal operation was to leave four drums of still bottoms open while cooling for two days after the hot still bottoms were placed in the drums. 40 CFR §265.173(a) [as referenced by 40 CFR §262.34(a)(4)(c)(1)(i)] requires that a container holding hazardous waste be closed during storage, except when it is necessary to add or remove waste.

f. Dominion did not provide a copy of the written training plan. 40 CFR § 265.16(d)(3) [as referenced by 40 CFR §262.34(a)(4)] requires that owners or operations maintain a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management.

g. Dominion did not provide a 2008 annual training record for one employee who signed a hazardous waste manifest in 2008. 40 CFR §265.16 (e) [as referenced by 40 CFR §262.34 (a)(4)] requires training records on current personnel must be kept until closure of the facility.

h. Drums stored in the main hazardous waste accumulation area were stored tight against each other and the rows of drums were greater than two drums wide. 40 CFR § 265.35 [as referenced by 40 CFR §262.34 (a)(4)] The owner or operator must maintain an appropriate aisle space.

i. A contingency plan was available on site. Facility personnel stated that there was a revised copy that included all required elements, but the revision was not

provided. 40 CFR §265.53 (a) [as referenced by 40 CFR §262.34 (a)(4)] requires that a copy of the contingency plan and all revisions to the plan be maintained at the facility.

j. Facility personnel stated that the contingency plan had been submitted to local authorities, but did not know which version of the plan was submitted. Documentation of submittal was not provided. 40 CFR §265.53 (b) [as referenced by 40 CFR §262.34 (a)(4)] requires that a copy of the contingency plan and all revisions to the plan must be submitted to all local authorities.

k. The submitted contingency plan did not include all of the contents required by 40 CFR §265.56 [as referenced by 40 CFR §262.34 (a)(4)].

l. Four 55-gallon drums of used oil located in the accumulation area were labeled "Waste Oil". Dominion ships this as used oil for recycling. Facility personnel addressed this issue during the inspection by clearly marking the words "Used Oil" on the four drums. 40 CFR §279.22 (c)(1) requires that containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

5. After the Department had made several requests for information Dominion submitted an incomplete response on March 2, 2010. Later that day the Department staff met with representatives of Dominion to discuss compliance issues at the Facility. During the meeting Dominion informed the Department that the material that it shipped as recyclable material was hazardous waste and should have been shipped as such. Dominion also indicated that it had contingency and training plans and that it would submit the plans to the Department.

6. On March 8 and 11, 2010, the Department requested Dominion to submit additional information.

7. On April 6, 2010, the Department received a submittal from Dominion, which included a copy of the contingency plan and the training plan. Department staff reviewed the contingency plan and found it to be incomplete. The training plan violation described in paragraph C4.f, was corrected through this submittal.

8. On April 13, 2010, based on the inspection and follow-up information, the Department issued Notice of Violation No. 2010-04-PRO-602 to Dominion for the violations described in C4 above.

9. On May 4, 2010, Department staff met with representatives of Dominion to discuss the violations. During the meeting Department staff requested Dominion to submit additional information.

10. On May 10, 2010, DEQ requested Dominion submit additional information.

11. On May 17, 2010, the Department received a submittal from Dominion. The submittal included a layout of the central accumulation areas and a copy of the hazardous waste program for the Facility. The violations described in paragraphs C4.b, d, e, and h, were corrected through this submittal.

12. On May 20, 2010, the Department received a copy of a letter that Dominion sent to the recycling facility that received its hazardous waste. The letter notified the facility that Dominion had shipped hazardous waste to it without manifests or LDRs. Copies of the LDRs and waste characterizations were included with the letter as attachments. The violations described in paragraphs C4.a and c, were corrected through this submittal.

13. On October 21, 2010, Department staff spoke with representatives of Dominion to discuss the Consent Order. Dominion informed the Department that the contingency plan that was received by the Department on April 6, 2010, was the plan that was submitted to local officials.

14. Based on the results of the January 6, 2010 inspection, the Board concludes that Dominion has violated 40 CFR §262.20, 40 CFR §262.34(a)(3) and (4), 40 CFR § 262.32(b), 40 CFR §268.7(a)(2), 40 CFR §262.34(c)(1), 9 VAC 20-60-262(B)(4), 40 CFR §265.173(a), 40 CFR §265.16 (d), 40 CFR §265.16 (e), 40 CFR §265.35, 40 CFR § 265.53 (a), 40 CFR §265.53 (b), 40 CFR §265.56, 40 CFR §279.22 (c)(1), as noted above.

15. In order for Dominion to complete its return to compliance, DEQ staff and representatives of Dominion have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Dominion, and Dominion agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of **$9,450** 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

Dominion shall include its Federal Employer Identification Number (FEIN) [(xx-xxxxxxx)] 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 Dominion for good cause shown by Dominion , 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, Dominion admits to the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Order.

4. Dominion 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. Dominion 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 Dominion 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. Dominion 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. Dominion shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dominion 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 Dominion 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 Dominion .

11. This Order shall continue in effect until:

    a. Dominion 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

    b. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Dominion .

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

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, Dominion Packaging, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2010.

_____
Michael P. Murphy, Regional Director
Department of Environmental Quality

Dominion Packaging, Inc. voluntarily agrees to the issuance of this Order.

Date: 11-1-10 By: Brett D. Hawkins, President
(Person) (Title)
Dominion Packaging, Inc.

Commonwealth of Virginia
City/County of Chesterfield

The foregoing document was signed and acknowledged before me this 1 day of Nov, 2010, by BRETT D. HAWKINS who is President of Dominion Packaging, Inc., on behalf of the corporation.

Aimee Alexander Wheeling
Notary Public

7289112
Registration No.

My commission expires: 3/31/2013

Notary seal:

AIMEE ALEXANDER WHEELING
NOTARY PUBLIC
REG # 7289112
MY COMMISSION EXPIRES 3/31/2013
COMMONWEALTH OF VIRGINIA

APPENDIX A
SCHEDULE OF COMPLIANCE

1. By December 1, 2010, Dominion shall revise the contingency plan to include the home contact information, including phone number and addresses for the plant emergency coordinators. Dominion shall submit the revised plan to the Department for review.

    a. If the contingency plan submitted by Dominion is found by the Department to be inaccurate or deficient, Dominion shall respond and correct any inaccuracies or deficiencies regarding the plan within 10 days from receiving the notice of the inaccuracy or deficiency.
    b. Within 10 days after final approval by the Department, Dominion shall submit a written certification to DEQ that a copy of the contingency plan has been provided to the necessary parties under 40 C.F.R. § 265.53 and that the contingency plan will be implemented, as needed, in accordance with 40 C.F.R. Subpart D.

2. By December 1, 2010, Dominion shall ensure that Facility personnel are trained in accordance with the requirements under 40 C.F.R. § 265.16(a). Within 10 days after the training, Dominion shall certify, in writing, to the Department that the training provided to Facility personnel met the requirements under 40 C.F.R. § 265.16(a).

Unless otherwise specified in this Order, Dominion shall submit all requirements of Appendix A of this Order to:

Jennifer Hoeffner
Enforcement Specialist, Sr.
VA DEQ – Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
804-527-5123
804-527-5106 (fax)
jennifer.hoeffner@deq.virginia.gov