



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### TIDEWATER REGIONAL OFFICE

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Regional Director

## VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO AMP UNITED, LLC EPA ID No. VAR000517490

### 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 AMP United, LLC, 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. "AMP" means AMP United, LLC, a limited liability corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. AMP is a "person" within the meaning of Va. Code § 10.1-1400.
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. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" means AMP United located at 1170 East Olney Road in Norfolk, Virginia.
7. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.

8. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
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. "Property" means the Cygnus property located at 0 McLean Street in Portsmouth, Virginia.
12. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
13. "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.
14. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "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. AMP United, LLC ("AMP"), operates a surface preparation, industrial and marine coatings, staging, and containment facility ("Facility") located at 1170 East Olney Road in Norfolk, Virginia. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. The Facility did not have an active EPA identification number. The EPA identification number VAR00517490 as a Small Quantity Generator ("SQG"), was reactivated from a previous Facility owner for this action.
3. On May 8, 2019, DEQ staff conducted a site visit at 0 McLean Street, Portsmouth, Virginia ("Property"), in response to a report of drums being improperly managed. The Property is owned by a private owner; however, the owner stated that the drums did not originate from the owner and had been transported to the property without authorization.

4. During the May 8, 2019, site visit, Department staff inspected the Property to evaluate compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection, Department staff made the following observations:
  - a. Six (6) 85 gallon "overpack" drums and one (1) 55 gallon drum were being improperly managed on the Property. DEQ did not observe any evidence of leakage from the drums.
5. 40 CFR § 262.10(a)(3), incorporated by reference in 9 VAC 20-61-262, states that, "A generator shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in § 260.10 of this chapter, or not otherwise authorized to receive the generator's hazardous waste."
6. Subsequent to the May 8, 2019, site visit, further investigation discovered that the drums located on the Property originated from AMP and its Norfolk Facility.
7. On May 31, 2019, the private owner authorized proper removal and disposal of the drums from the property under manifest as hazardous waste, which were identified as waste codes D001, D035, F003, and F005 (waste paint related material and waste solids containing flammable liquid). The drums were removed from the property on June 4, 2019, to a permitted hazardous waste facility.
8. On July 11, 2019, Department staff inspected the Facility to evaluate compliance with the requirements of the Virginia Waste Management Act and the Regulations. During this inspection, AMP confirmed that the drums found on the Property belonged to AMP and had determined that the drums contained hazardous waste.
9. On September 25, 2019, by letter to DEQ, AMP representatives described the events surrounding the improper management of drums on the Property.
10. On October 11, 2019, based on the May 8, 2019, and July 11, 2019, inspections and September 25, 2019, letter from AMP to DEQ, the Department issued a Notice of Violation ("NOV") to AMP for the violations described in paragraph C(4), above.
11. Based on the May 8, 2019, and July 11, 2019, inspections, and the September 25, 2019, and October 15, 2019, letters from AMP, the Board concludes that AMP has violated 40 CFR § 262.10(a)(3) and 9 VAC 20-61-262, as described in paragraph C(4), above.
12. In its September 25, 2019, and October 15, 2019, letters, AMP stated that its employees had been retrained regarding management of hazardous waste and described steps taken to reduce the likelihood of improper management in the future. Furthermore, the drums were removed from the Property and properly disposed on June 4, 2019. Based on the proper disposal of the drums and implementation of the new hazardous waste management measures at the Facility, the conditions that led to the violations described in paragraph C(4), 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 AMP, and AMP agrees to:

Pay a civil charge of \$27,334 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

AMP United, LLC, 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). If the Department has to refer collection of moneys due under this Order to the Department of Law, AMP shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of AMP for good cause shown by AMP, 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 and in the NOV dated October 11, 2019. 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, AMP admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. AMP 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. AMP 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 AMP 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. AMP 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. AMP shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. AMP 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.

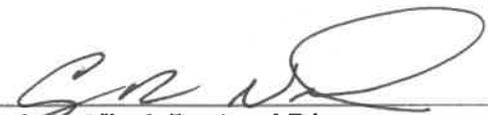
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement 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 AMP. Nevertheless, AMP agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after AMP has completed all of the requirements of the Order;
  - b. AMP 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 AMP.

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

And it is so ORDERED this 20 day of MARCH, 2020

  
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Craig R. Nicol, Regional Director  
Department of Environmental Quality

AMP United, LLC, voluntarily agrees to the issuance of this Order.

Date: 1-30-2020 By: Peter Lign (Person), Managing Partner (Title)  
AMP United, LLC

Commonwealth of Virginia  
City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this 30 day of January,  
2020, by Peter Lignos who is Managing Partner of  
AMP United, LLC, on behalf of AMP.

\_\_\_\_\_  
KRISTAN P. WELSH Notary Public  
State of New Hampshire  
My Commission Expires December 19, 2023

\_\_\_\_\_  
Registration No.

My commission expires: \_\_\_\_\_

Notary seal: