



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
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Matthew J. Strickler
Secretary of Natural Resources

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Director
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Thomas A. Fahs
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
Hoover Treated Wood Products, Inc.
FOR
Hoover Treated Wood Products
EPA ID No. VAD988190021**



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 Hoover Treated Wood Products, Inc., regarding the Hoover Treated Wood Products 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. "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. "Facility" or "Site" means the Hoover Treated Wood Products wood treating operations located at 18315 House Drive, Milford, Caroline County, Virginia.
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. "Hoover" means the Hoover Treated Wood Products, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Hoover is a "person" within the meaning of Va. Code § 62.1-44.3.
9. "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).
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
11. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
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. "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).
16. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.

18. "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.
19. "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. Hoover owns and operates the Facility in Milford, Caroline County, Virginia. The Facility is a commercial wood treating operation.
2. Hoover submitted EPA Form 8700-12 (dated January 26, 1999) that gave notice of regulated waste activity at the Facility as a SQG of hazardous waste. Hoover was issued EPA ID No. VAD988190021 for the Facility.
3. On September 25, 2018, DEQ staff conducted a hazardous waste compliance evaluation inspection (CEI) of the Facility to evaluate compliance with the applicable Virginia Hazardous Waste Management Regulations (VHWMR). As a result of compliance deficiencies observed during the inspection, DEQ issued Hoover a Notice of Violation (NOV) on November 20, 2018.
4. On December 21, 2018, December 26, 2018, and January 3, 2019, Hoover submitted a written response to the NOV as well as documentation to support the response.
5. On January 30, 2019, DEQ staff met with representatives of Hoover to discuss the violations, and Hoover's written responses and documentation.
6. Hoover stated that the Facility conditions observed by DEQ during the September 25, 2019 CEI (drip pad berm damaged and pool of colored liquid on ground outside of the drip pads), was a result of a forklift accident that occurred during the overnight shift from September 24 to September 25 (not deterioration or improper operation), and that cleanup and repairs were completed in accordance with the VWHMR. Hoover also stated that with the inclusion of drip pad wash and wastewaters, they remained within the monthly waste generating limits of a SQG at the Facility.
7. Based on the September 2018 inspection and follow-up correspondence between DEQ and Hoover, Hoover failed to comply with regulations concerning proper drip pad operation and repair notifications as DEQ was: (1) not properly notified of the discovery of a drip pad release condition, (2) not given the opportunity to review information and make a determination of whether the pad must be removed from service completely or partially until repairs and clean up are complete; and (3) not properly notified in a timely manner of the completion of drip pad repairs.

8. 40 CFR §265.443(m) as incorporated by reference into 9 VAC 20-60- 262, states:
“Design and operating requirements. (m) Throughout the active life of the drip pad, if the owner or operator detects a condition that may have caused or has caused a release of hazardous waste, the condition must be repaired within a reasonably prompt period of time following discovery, in accordance with the following procedures: (1) Upon detection of a condition that may have caused or has caused a release of hazardous waste (e.g., upon detection of leakage by the leak detection system), the owner or operator must: (i) Enter a record of the discovery in the facility operating log; (ii) Immediately remove the portion of the drip pad affected by the condition from service; (iii) Determine what steps must be taken to repair the drip pad, remove any leakage from below the drip pad, and establish a schedule for accomplishing the clean up and repairs; (iv) Within 24 hours after discovery of the condition, notify the Regional Administrator of the condition and, within 10 working days, provide a written notice to the Regional Administrator with a description of the steps that will be taken to repair the drip pad, and clean up any leakage, and the schedule for accomplishing this work. (2) The Regional Administrator will review the information submitted, make a determination regarding whether the pad must be removed from service completely or partially until repairs and clean up are complete, and notify the owner or operator of the determination and the underlying rationale in writing. (3) Upon completing all repairs and clean up, the owner or operator must notify the Regional Administrator in writing and provide a certification, signed by an independent qualified, registered professional engineer, that the repairs and clean up have been completed according to the written plan submitted in accordance with paragraph (m)(1)(iv) of this section.”

9. During the September 2018 inspection, Hoover stated that it was utilizing the regulatory exclusion rule at the Facility such that the Facility is not including drip pad wash and wastewaters in monthly totals of generated hazardous waste. However, no exemption notification had been submitted to DEQ in accordance with 40 CFR 261.4(a)(9)(E).

10. 40 CFR §261.4(a)(9) as incorporated by reference into 9 VAC 20-60- 262, states:
“Exclusions. (a) *Materials which are not solid wastes.* The following materials are not solid wastes for the purpose of this part:...(9)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and (ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood. (iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in paragraphs (a)(9)(i) and (a)(9)(ii) of this section, so long as they meet all of the following conditions: (A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose; (B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both; (C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases; (D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in part 265, subpart W of this chapter, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and (E) Prior to operating pursuant to this exclusion, the plant owner or

operator prepares a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the appropriate Regional Administrator or state Director for reinstatement. The Regional Administrator or state Director may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that the violations are not likely to recur."

11. During the September 2018 inspection, DEQ staff observed that drip pad inspections were not being conducted following storm events. DEQ review of inspection logs showed that the weekly drip pad inspections being performed would occasionally occur after a storm event, but that inspections were performed on the same day each week and there was no documentation to show specific compliance with post-storm inspection regulations.
12. 40 CFR §265.444(b) as incorporated by reference into 9 VAC 20-60- 265, states: "Inspections. (b) While a drip pad is in operation, it must be inspected weekly and after storms to detect any of the following: (1) Deterioration, malfunctions or improper operation of run-on and run-off control systems; (2) The presence of leakage in and proper functioning of leakage detection system. (3) Deterioration or cracking of the drip pad surface."
13. During the September 2018 inspection, DEQ staff observed that Hoover's drip pad inspection logs for the Facility did not have lines to document the time of each drip pad cleaning, and this information is not otherwise detailed in the logs as required per the Regulations.
14. 40 CFR §265.443(i) as incorporated by reference into 9 VAC 20-60- 262, states: "Design and Operating Requirements. (i) The drip pad surface must be cleaned thoroughly in a manner and frequency such that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as hazardous waste, so as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator must document the date and time of each cleaning and the cleaning procedure used in the facility's operating log."
15. At the time of the September 2018 inspection, Hoover was not counting hazardous waste condensate generated from the kiln drying operation as part of the Facility's monthly generation totals. The condensate waste was being recirculated through an onsite treatment system for reclamation/reuse of chromated copper arsenate (CCA) product.

16. 40 CFR §262.11(a) through (d) as incorporated by reference into 9 VAC 20-60- 262, states: “Hazardous waste determination and recordkeeping. A person who generates a solid waste, as defined in 40 CFR 261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations. A hazardous waste determination is made using the following steps: (a) The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change. (b) A person must determine whether the solid waste is excluded from regulation under 40 CFR 261.4. (c) If the waste is not excluded under 40 CFR 261.4, the person must then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under subpart D of 40 CFR part 261. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If the waste is listed, the person may file a delisting petition under 40 CFR 260.20 and 260.22 to demonstrate to the Administrator that the waste from this particular site or operation is not a hazardous waste. (d) The person then must also determine whether the waste exhibits one or more hazardous characteristics as identified in subpart C of 40 CFR part 261 by following the procedures in paragraph (d)(1) or (2) of this section, or a combination of both. (1) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge (*e.g.*, information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in subpart C of 40 CFR part 261, or an equivalent test method approved by the Administrator under 40 CFR 260.21, may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous waste. However, such tests do not, by themselves, provide definitive results. Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at 40 CFR 260.10.”

40 CFR §262.13(a) as incorporated by reference into 9 VAC 20-60- 262, states:
“Generator category determination. A generator must determine its generator category. A generator's category is based on the amount of hazardous waste generated each month and may change from month to month. This section sets forth procedures to determine whether a generator is a very small quantity generator, a small quantity generator, or a large quantity generator for a particular month, as defined in §260.10 of this chapter. (a) *Generators of either acute hazardous waste or non-acute hazardous waste.* A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month by doing the following: (1)

Counting the total amount of hazardous waste generated in the calendar month; (2) Subtracting from the total any amounts of waste exempt from counting as described in paragraphs (c) and (d) of this section; and (3) Determining the resulting generator category for the hazardous waste generated using Table 1 of this section.”

40 CFR §262.13(c) as incorporated by reference into 9 VAC 20-60- 262, states: “Generator category determination. (c) When making the monthly quantity-based determinations required by this part, the generator must include all hazardous waste that it generates, except hazardous waste that: (1) Is exempt from regulation under 40 CFR 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8; (2) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10; (3) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2); (4) Is used oil managed under the requirements of 40 CFR 261.6(a)(4) and 40 CFR part 279; (5) Is spent lead-acid batteries managed under the requirements of 40 CFR part 266 subpart G; (6) Is universal waste managed under 40 CFR 261.9 and 40 CFR part 273; (7) Is a hazardous waste that is an unused commercial chemical product (listed in 40 CFR part 261 subpart D or exhibiting one or more characteristics in 40 CFR part 261 subpart C) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to §262.213. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in §262.200; or (8) Is managed as part of an episodic event in compliance with the conditions of subpart L of this part.”

17. In email correspondence with Hoover on February 21, 2019, DEQ stated that Hoover's kiln condensate may be considered a hazardous secondary material (HSM), and if so, could be exempt from counting as part of Hoover's monthly hazardous waste generation at the Facility. Specifically, if the condensate is determined to be a characteristic byproduct, so long as the condensate is legitimately recycled, the material should be excluded from RCRA in accordance with 40 CFR 261.2 (c)(3), and documentation would only need to be kept in the record for the management of this waste. However, if the condensate is determined to be a listed byproduct, Hoover would have to meet all of the conditions for the definition of solid waste (DSW) exclusion at 40 CFR 261.4 (a)(23). To utilize the DSW exclusion, DEQ would require notification.

Hoover has explained that it does not believe the kiln condensate waste to be hazardous, and Hoover and DEQ further corresponded about this item throughout May, June, and July 2019. On July 16, 2019, Hoover stated during a conference call that it would collect and analyze a sample of the kiln condensate waste to determine whether the concentration of arsenic or chromium exceeds the regulatory thresholds for toxicity in 40 CFR 261.24.

18. During the September 2018 inspection, DEQ staff observed a layer of oil in the bottom of the used oil filter storage containers. Hoover stated that the used oil filters were being managed as solid waste. However, if the filters are not completely drained, then they do not meet the full regulatory requirements for exclusion from being a hazardous waste.

19. 40 CFR §261.4(b)(13) as incorporated by reference into 9 VAC 20-60- 261, states:
“Exclusions. (b) *Solid wastes which are not hazardous wastes*. The following solid wastes are not hazardous wastes: (13) Non-terne plated used oil filters that are not mixed with wastes listed in subpart D of this part if these oil filters have been gravity hot-drained using one of the following methods: (i) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining; (ii) Hot-draining and crushing; (iii) Dismantling and hot-draining; or (iv) Any other equivalent hot-draining method that will remove used oil.”
20. During the September 2018 inspection, DEQ staff observed a universal waste box of used lamps located in the central universal waste storage shed that was open, deteriorated, and not labeled or dated.
21. 40 CFR §273.13(d) as incorporated by reference into 9 VAC 20-60- 273, states: “Waste management. (d) *Lamps*. A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows: (1) 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 and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions. (2) A small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.”

40 CFR §273.14(e) as incorporated by reference into 9 VAC 20-60- 273, states:
“Labeling/marketing. A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below: (e) Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”

40 CFR §273.15(c) as incorporated by reference into 9 VAC 20-60- 273, states:
“Accumulation time limits. (c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by: (1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received; (2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received; (3) Maintaining an inventory system on-site that

identifies the date each universal waste became a waste or was received; (4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received; (5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or (6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.”

22. Based on the results of the September 25, 2018 inspection, documentation submitted to DEQ, and correspondence between Hoover and DEQ as described above, the Board concludes that Hoover has violated 40 CFR §265.443(m), 40 CFR §261.4(a)(9), 40 CFR §265.444(b), 40 CFR §265.443(i), 40 CFR §262.11(c), 40 CFR §262.11(d), 40 CFR §262.13(a), 40 CFR §262.13(c), 40 CFR §262.13(d), 40 CFR §261.4(b)(13), 40 CFR §273.13(d), 40 CFR §273.14(e), 40 CFR §273.15(c), 9 VAC 20-60-261, 9 VAC 20-60-262, 9 VAC 20-60-265, and 9 VAC 20-60-273, as described above in paragraphs C(1) through C(21).
23. The corrective actions performed by Hoover and/or documentation submitted to DEQ by Hoover after the CEI and/or in response to the NOV included:
 - a. a *storage yard deminimis drippage clean-up contingency plan*;
 - b. a *storage yard deminimis drippage record of clean-up*;
 - c. a statement that Hoover had obtained appropriate universal waste containers for the storage of waste lamps and addressed the deteriorated box of used lamps that were observed;
 - d. a copy of a standard operating procedure (SOP) that is now being utilized in the Facility’s forklift maintenance area to ensure that used oil filters are adequately drained before storage;
 - e. a copy of a revised weekly drip pad inspection log/report that now includes a line to document the time of each drip pad cleaning;
 - f. a statement that Hoover is now performing drip pad inspections after precipitation events that result in visible precipitation on the drip pads;
 - g. an engineering certification demonstrating that the repairs/construction modifications to the Facility’s drip pads and berms meet the requirements of 40 CFR Part 265 Subpart W; and
 - h. Hoover’s exemption notification for the exclusion of drip pad wash and wastewaters in accordance with 40 CFR 261.4(a)(E).
24. As described above in paragraphs C(23), Hoover has submitted documentation that verifies that the violations at the Facility have been corrected, with the exception of making a hazardous waste determination of the kiln condensate waste, and developing a plan to manage future kiln condensate waste generated at the Facility based on that waste determination (described above in paragraphs C(15) through C(17)).
25. DEQ staff and representatives of Hoover have agreed that Hoover shall complete the tasks described in Appendix A of this Order in accordance with the schedule stated therein.

SECTION D: Agreement and Order

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

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$12,950** 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

Hoover shall include its Federal Employer Identification Number (FEIN) 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, Hoover 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 Hoover for good cause shown by Hoover, 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 November 20, 2018. 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, Hoover admits 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. Hoover 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. Hoover 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 Hoover 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. Hoover 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. Hoover shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Hoover 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 Hoover. Nevertheless, Hoover 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 Hoover has completed all of the requirements of the Order;
- b. Hoover 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 Hoover.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Hoover 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 Hoover 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 Hoover certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Hoover to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Hoover.

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, Hoover voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 4th day of February, ~~2019~~ 2020.


Thomas A. Faha, Regional Director
Department of Environmental Quality

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APPENDIX A
SCHEDULE OF COMPLIANCE

Hoover Treated Wood Products, Inc. shall:

1. Within 60 days of the effective date of this Order, submit to DEQ documentation showing Hoover's waste determination of the Facility's kiln condensate waste based on sample collection and laboratory analysis of the condensate, and documentation describing Hoover's plan for managing kiln condensate waste generated at the Facility in the future based on that waste determination.
2. Unless otherwise specified in this Order, Hoover shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality
Northern Regional Office
Attention: Enforcement
13901 Crown Court
Woodbridge, VA 22193