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VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
WINOA USA, INC.
FOR THE
WINOA USA, INC. BEDFORD, VA FACILITY
EPA ID No. VAD988214474

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 WinoA USA, Inc., regarding the WinoA USA, Inc. Bedford, 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 Roanoke, Virginia.
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" or "Site" means the Winoa USA, Inc. facility located at One Abrasive Avenue, Bedford, Virginia and referred to as Winoa USA, Inc. Bedford VA facility.
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. "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. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
12. "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.
13. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
14. "Va. Code" means the Code of Virginia (1950), as amended.
15. "VAC" means the Virginia Administrative Code.
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.
17. "Winoa" means Winoa USA, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Winoa is a "person" within the meaning of Va. Code § 10.1-1400.

SECTION C: Findings of Fact and Conclusions of Law

1. Winoa owns and operates the Facility in Bedford, Virginia. The Facility manufactures steel shot and angular abrasives from scrap metal and steel and the abrasives are used in industrial cleaning applications. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. Winoa initially notified of hazardous waste generation activities as a LQG in 1980, generating K061 waste. In its 1981 Waste Analysis Plan, which referenced the 11/1980 Federal Register, Vol. 45, No. 220, Page 74887, Winoa stated that the emission control dust from its electric arc furnace (“EAF”) did not meet the criteria of the K061 listing because it was not a “primary producer” of steel. Consequently, Winoa has managed its emissions control dust as a characteristic waste with waste codes D006 and D008. Winoa was issued EPA ID No. VAD988214474 for the Facility.
3. At the Facility, Winoa generates hazardous wastes that include emission control dust from Bag House #1, parts washer solvent, fluids from aerosol can puncturing unit, and filter from can puncture unit. Regulated wastes generated at the facility include universal waste halide lamps, used oil, oil/water mixtures, coolant, slag and refractories, and emissions control dust from bag houses #2, #3, and #4.
4. On June 18, 2015, 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. Winoa uses an in-line stabilization system to treat EAF dust for cadmium, lead, and chromium. Six shipments of EAF dust generated in 2012, 2013, and 2015 (“Waste Dust Shipments”) exhibited one or more characteristics of hazardous waste and Winoa did not ensure that the waste met the land disposal restriction (“LDR”) treatment standards prior to the waste being land disposed. 9 VAC 20-60-268 states that prohibited waste identified in the table ‘Treatment Standards for Hazardous Wastes’ may be land disposed only if it meets the requirements found in the table.
6. Winoa used non-hazardous waste manifests to track the Waste Dust Shipments because it characterized this waste as solid waste once stabilized by the inline treatment system. 9 VAC 20-60-262 requires that a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest on EPA Form 8700-22. 265.
7. Winoa failed to prepare LDR forms and attach them to the shipping papers of the Waste Dust Shipments to notify the receiving facility whether the hazardous waste could be land disposed without further treatment. Copies of the LDR forms are required to be maintained on-site with Winoa’s copy of the hazardous waste shipping papers. 9 VAC 20-60-268 requires that generators of hazardous waste must determine whether the hazardous waste is subject to land disposal restrictions, conduct treatment prior to land disposal, and determine the treatment meets the treatment standard. The generator must

prepare a one-time written notice to the receiving facility for wastes that do not meet treatment standards. Generators must retain on-site a copy of all notices and other documentation produced pursuant to this section for at least three years.

8. Winoia disposed of six roll-offs of baghouse dust in 2012, 2013, & 2015 and is a LQG of hazardous waste. Winoia is subject to the requirement to file a biennial report in 2014 and 2016, detailing the hazardous waste(s) generated and the methods of disposal. Winoia has not filed a biennial report since 2004. 9 VAC 20-60-262 requires a generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the USA must prepare and submit a single copy of a Biennial Report to the Regional Administrator by 03/01 of each even numbered year. The Biennial Report must be submitted on EPA Form 8700-13A and must cover generator activities during the previous year.
9. Winoia has not paid the annual fee for LQG of hazardous waste for 2012, 2013, and 2015. 9 VAC 20-60-1283(E) requires that anyone who is a LQG at any time during the year shall be assessed the full annual fee amount no matter how short the period the facility is operated or how briefly the generator is a large quantity generator.
10. Winoia stores used oil/coolant/water mixtures in large double-walled poly totes that are ultimately sent for recycling. The totes were not clearly marked with the words "used oil." 9 VAC 20-60-279 requires containers and aboveground tanks used to store oil at generator facilities to be labeled or marked clearly with the words 'Used Oil.' Winoia staff attached labels during the inspection.
11. On October 16, 2015, based on the inspection and follow-up information, the Department issued NOV No. NOV-15-10-BRRO-003 to Winoia for the violations described in paragraphs C(5) through C(10), above.
12. Based on the results of the June 18, 2015 inspection, the Board concludes that Winoia has violated 9 VAC 20-60-268, 9 VAC 20-60-262, 9 VAC 20-60-1283(E) and 9 VAC 20-60-279, as described in paragraphs C(5) through C(10), above.
13. In order for Winoia to return to compliance, DEQ staff and representatives of Winoia 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 Winoia, and Winoia agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$22,775.23** 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

Winoa shall include its Federal Employer Identification Number (FEIN) 54-1589377 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 Winoa for good cause shown by Winoa, 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, Winoa admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Winoa 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. Winoa 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 Winoa 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. Winoa 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. Winoa shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Winoa 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 Winoa. Nevertheless, Winoa 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 Winoa has completed all of the requirements of the Order;
 - b. Winoa 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

Consent Order

Winoa USA, Inc.; EPA ID. No. VAD988214474

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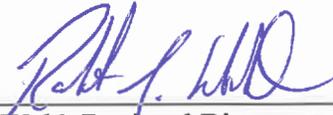
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Winoa.

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

And it is so ORDERED this 17th day of January, 2017.



Robert J. Weld, Regional Director
Department of Environmental Quality

Winoa USA, Inc. voluntarily agrees to the issuance of this Order.

Date: 12/06/16 By: John Moore, Plant Manager
John Moore
Winoa USA, Inc.

Commonwealth of Virginia
City/County of Bedford

The foregoing document was signed and acknowledged before me this 6th day of December, 2016, by John Moore who is a Plant Manager of Winoa USA, Inc., on behalf of the corporation.

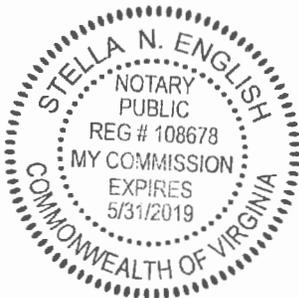


Notary Public

108678
Registration No.

My commission expires: 5/31/19

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Winoa shall:

1. No later than 30 days from the effective date of the Order, submit to the Department for approval, a revised “Instructions for #1 Dust Collector Waste Sampling.” Winoa shall respond to any notices of deficiency provided by the Department, in accordance with the requirements of the notice of deficiency.
2. No later than 30 days from the effective date of the Order, Winoa shall prepare LDR forms and notify the receiving facility whether the Waste Dust Shipments could be land disposed without further treatment. Winoa will provide documentation of this notification to the Department no later than 40 days from the effective date of the Order.
3. No later than 30 days from the effective date of the Order, Winoa shall submit the required 2014 and 2016 biennial reports to EPA and provide documentation of this submittal to the Department no later than 40 days from the effective date of the Order.
4. No later than 30 days from the effective date of the Order, Winoa shall submit the annual fees related to LQG status in 2012, 2013, and 2015.
5. Unless otherwise specified in this Order, Winoa shall submit all requirements of Appendix A of this Order to:

Jerry Ford, Jr.
VA DEQ - Blue Ridge Regional Office
3019 Peters Creek Road
Roanoke, VA 24019
Phone: (540) 562-6817
e-mail: Jerry.Ford@deq.virginia.gov