

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
INDMAR COATINGS CORPORATION**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and INDMAR Coatings Corporation, for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
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.
5. “Order” means this document, also known as a Consent Special Order.
6. “INDMAR” means INDMAR Coatings Corporation, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the INDMAR Coatings Corporation facility located at 317 West Main Street, in Wakefield, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Regulation" means 9 VAC 25-31-10, *et seq.*, the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.

SECTION C: Findings of Fact and Conclusions of Law

1. INDMAR owns and operates a paint and Coatings manufacturing facility in Wakefield, Virginia. This facility is subject to the 2851 Standard Industrial Classification (SIC) Code. The Regulation, at 9 VAC 25-31-120 requires that stormwater discharges associated with industrial activities obtain a VPDES Permit. Stormwater discharges associated with industrial activities are defined by the Regulation, at 9 VAC 25-31-10 to include discharges from facilities classified as SIC # 2851.
2. On September 23, 2002, and October 4, 2002, the Department conducted inspections of the Facility. The inspections determined that the Facility was operating without a Permit.
3. On December 31, 2002 a Notice of Violation (NOV) was issued to the Facility for the above violation.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders INDMAR, and INDMAR agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders INDMAR, and INDMAR voluntarily agrees, to pay a civil charge of \$1,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification Number for INDMAR. Payment shall be by check, certified check, money order, or cashiers check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of INDMAR, for good cause shown by INDMAR, or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein. 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 as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, INDMAR admits the jurisdictional allegations, factual findings, and conclusions of law contained herein. However, INDMAR does not admit any intentional wrongdoing.
4. INDMAR 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. INDMAR declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law 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 enforce this Order.
6. Failure by INDMAR 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. INDMAR 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. INDMAR shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. INDMAR shall notify the DEQ Regional Director in writing 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 within 24 hours of learning of any condition above, which INDMAR 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 INDMAR. Notwithstanding the foregoing, INDMAR agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to INDMAR. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve INDMAR from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
- 13. By its signature below, INDMAR voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2004.

Robert G. Burnley, Director
Department of Environmental Quality

INDMAR voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2003, by _____, who is (name)

_____ of INDMAR.
(title)

Notary Public

My commission expires: _____

APPENDIX A

INDMAR shall:

1. Submit a complete Individual VPDES or Industrial Stormwater General Permit application to PRO within 30 days of its execution of this Order. This permit application shall include the Storm Water Pollution Prevention Plan and a location map that clearly shows the location of the Facility, the location of all storm water discharge points, the water body or water bodies that receive the storm water runoff and any other surface waters within a ½ mile radius of the Facility.