



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Secretary of Natural Resources

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EXECUTIVE COMPLIANCE AGREEMENT

VIRGINIA STATE UNIVERSITY

EPA ID NUMBER VAD980555338

This is an Executive Compliance Agreement (Agreement) between the Virginia State University (VSU) and the Virginia Department of Environmental Quality (DEQ) pursuant to the Director's authority, as set forth in §§§ 10.1-1185, -1192, and -1455 of the Code of Virginia (Va. Code), to administer and enforce the Virginia Waste Management Act and regulations. VSU is an educational institution declared a government instrumentality as set forth in Va. Code § 23-14.

VSU is an academic university in Petersburg, Virginia that generates waste at its chemistry department teaching labs, agricultural research labs, and physical plant where vehicle maintenance, painting, plumbing, carpentry, and HVAC work is accomplished. These operations at VSU are subject to the Virginia Waste Management Act and the Regulations. VSU submitted a RCRA Subtitle C Site Identification Form that gave notice of regulated waste activity at the University as a SQG of hazardous waste. VSU was issued EPA ID Number VAD980555338 for the University.

On July 25th & 26th, 2012, Department staff inspected the University 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:

1. Hazardous waste was observed in accumulation areas that appeared to have accumulation start dates greater than 180 days old including a 1 gallon glass bottle of D001 waste with an accumulation date of 9/21/11 and a 500 ml. glass bottle containing "metals" with an accumulation date of 9/26/11. Both were located in the Chemistry Department's chemical storage area outside the Hunter McDaniel Building.

Legal Requirements: 40 CFR §262.34(f) states: "(f) A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous waste for more than 180 days (or for more than 270 days if he must transport his waste, or offer his

waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 265 and 267, and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by EPA if hazardous wastes must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.”

2. Manifest number 7994035JJK was missing its corresponding TSD facility signed copy for a 7/18/11 shipment.

Legal Requirements: 40 CFR §262.42(b) states: “(b) A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the EPA Regional Administrator for the Region in which the generator is located.”

3. Hazardous waste shipping documents were not available for shipments made before 2011.

Legal Requirements: 40 CFR §262.40(a) (as ref. by §262.44) states: “A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month is subject only to the following requirements in this subpart: (a) Section 262.40(a), (c), and (d), recordkeeping;”... 262.40(a) “A generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.”

4. Multiple containers of hazardous waste stored in hazardous waste accumulation areas were missing the accumulation start dates, including more than 17 containers in the Hunter McDaniel chemical storage building and over 18 containers in the agricultural research M.T. Carter Building hazardous waste accumulation areas.

Legal Requirements: 40 CFR §262.34(a)(2) as ref. by 262.34(d)(4) states: “(a) Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:”... “(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;”

5. Multiple containers of hazardous waste stored in hazardous waste accumulation areas were missing ‘hazardous waste’ labels, including more than 18 containers in the Hunter McDaniel chemical storage building and over 30 containers in the agricultural research M.T. Carter Building hazardous waste accumulation areas.

Legal Requirements: 40 CFR §262.34(a)(3) as ref. by 262.34(d)(4) states: “(a) Except as

provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:”... “(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, “Hazardous Waste;”...

6. The satellite accumulation area in the fume hood of room 233N of the chemistry department Hunter McDaniel building contained six unlabelled hazardous waste containers.

***Legal Requirements:* 40 CFR §262.34(c)(1)(ii) states: “(c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in § 261.31 or § 261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) of this section provided he:”... “(ii) Marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.”**

7. All of the 2012 manifests were missing their corresponding land disposal restriction (LDR) notifications.

***Legal Requirements:* 40 CFR §268.7(a)(2) states: “(a) Requirements for generators:”... “(2) If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, 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. The notice must include the information in column “268.7(a)(2)” of the Generator Paperwork Requirements Table in paragraph (a)(4) of this section. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and must state “This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.”) No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent and a copy placed in the generator’s file.”**

8. Hazardous waste containers were open or improperly closed including modified and open top containers containing corrosive hazardous waste (HCL Waste) and unknowns in the chemistry departments Room 233N fume hood.

***Legal Requirements:* 40 CFR §265.173 states: “(a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.”**

9. Failure to hazardous waste determinations for aerosol cans disposed of as municipal solid waste, recycled antifreeze, or combined motor oil filter and transmission fluid filter waste.

***Legal Requirements:* 40 CFR §262.11 states: “A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste”...**

On October 22, 2012, based on the inspection and follow-up information, the Department issued Notice of Violation No. 2012-10-PRO-604 to VSU for the violations described in 1 through 9 above.

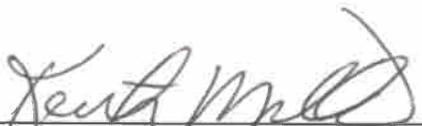
On October 23, 2012, VSU submitted a written response to the NOV stating that most of the items mentioned in the NOV were corrected and they were working on resolving the remaining issues. On November 5, 2012 VSU informed the Department that an environmental compliance officer was hired to manage the University's environmental issues. On November 19, 2012, Department staff met with representatives of VSU to discuss the violations, including VSU's documentation of the corrected items.

Based on the results of July 25, 2012 inspection, the November 19, 2012 meeting, the Board concludes that VSU has violated 40 CFR §262.34(f), 40 CFR §262.42(b), 40 CFR §262.34(a)(3), 40 CFR §262.34(a)(2), 40 CFR §262.34(a)(3), 40 CFR §262.34(c)(1)(ii), 40 CFR §268.7(a)(2), 40 CFR §265.173, and 40 CFR §262.11 as described above.

On December 19, 2012, VSU submitted documentation to the Department that verifies that the violations described in paragraphs numbered 1, 3, 6, 7, and part of 9, above, have been corrected. In addition, VSU developed a weekly inspection checklist to address closed containers mentioned in paragraphs 4 and 5 and submitted documentation that personnel working in the agricultural lab received hazardous waste management training.

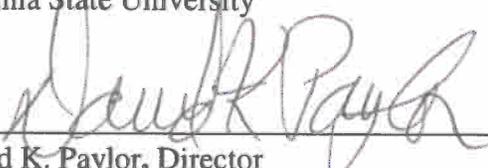
In order for VSU to complete its return to compliance, DEQ staff and representatives of VSU have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Executive Compliance Agreement.

This Agreement shall become effective upon the date of its execution by the Director of the Department of Environmental Quality or his designee. VSU agrees to be bound by any compliance dates in this Agreement that may predate its effective date.



Dr. Keith T. Miller, President
Virginia State University

6/25/13
Date



David K. Paylor, Director
Department of Environmental Quality

7/11/2013
Date

APPENDIX A SCHEDULE OF COMPLIANCE

Virginia State University agrees to:

1. Container Management

Effective immediately, VSU shall manage all containers in accordance with the requirements of 40 CFR §§ 262.34 and 265.171.

- a. On or before July 1, 2013, VSU shall submit photographs and documentary evidence to the Department demonstrating that the containers at the University are closed, labeled, and being maintained in good condition in accordance with the regulatory requirements.
- b. VSU shall respond to any notices of deficiency with respect to the condition of its containers or its documentation in accordance with the notice.

2. Manifests

On or before July 1, 2013, VSU shall submit to the Department a copy of manifest # 7994035JJK signed by the receiving facility for a hazardous waste shipment on July 18, 2011.

3. Waste Determinations

On or before July 1, 2013, VSU shall submit to the Department hazardous waste determinations on the used antifreeze and the oil and transmission fluid filters.

4. Contact

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

Frank Lupini
Enforcement Specialist
VA DEQ –Piedmont Regional Office
4949A Cox Road,
Glen Allen, Virginia 23060
Frank.Lupini@deq.virginia.gov