



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
VALLEY REGIONAL OFFICE

Matthew J. Strickler
Secretary of Natural Resources

P.O. Box 3000, Harrisonburg, Virginia 22801
(540) 574-7800 Fax (540) 574-7878
Physical Address: 4411 Early Road, Harrisonburg, VA
www.deq.virginia.gov

David K. Paylor
Director
Amy Thatcher Owens
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
CADENCE, INC.
FOR
CADENCE, INC.
EPA ID No. VAR000010777**

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 Cadence, Inc., regarding the Cadence, Inc. 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. "Cadence" means Cadence, Inc., a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Cadence is a "person" within the meaning of Va. Code § 10.1-1400.
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 Cadence, Inc. Facility located at 9 Technology Drive in City of Staunton, 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. "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 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.
13. "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).
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.

SECTION C: Findings of Fact and Conclusions of Law

1. Cadence owns and operates a specialty blade manufacturing operation, located in the City of Staunton, Virginia. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. As of November 1, 2019, Cadence was identified in the RCRA Information System database as Specialty Blades, Inc. and was registered as a SQG of hazardous waste.
3. At the Facility, Cadence generates the following solid wastes which are also hazardous wastes. Each waste is listed with associated waste codes as described in 40 CFR § 261. Hazardous wastes, including those listed below, are properly labeled and accumulated in containers at the Facility after its generation.

Ignitable Waste: D001

Corrosive Waste: D002

Chromium: D007

Lead: D008

Tetrachloroethylene: D039

Spent non-halogenated solvents: F003

Wastewater treatment sludges from electroplating operations: F006

4. On November 1, 2019, DEQ staff conducted a Compliance Evaluation Inspection (CEI) of the Facility, including a records review. Staff observed the following:
 - a. Records reflecting that quantities of waste manifested for disposal during the months of April 2019, May 2019, and July 2019, were greater than 1,000 kilograms. DEQ has no records of Cadence notifying DEQ of this change in generator status.
 - b. Records reflecting that EPA ID Number VAR000010777 was associated with Specialty Blades, Inc. The current owner of the Facility is Cadence, Inc.
 - c. No records were available showing that Cadence had a training program.
 - d. No records were available showing that Cadence had a current contingency plan.
 - e. No records were available showing any weekly inspection logs for the accumulation area.
 - f. No records were available of notification documentation for the location of the hazardous waste storage area.
5. 40 CFR 262.10(b) as referenced by 9VAC20-60-262 states: “(b) Determining generator category. A generator must use §262.13 to determine which provisions of this part are

applicable to the generator based on the quantity of hazardous waste generated per calendar month.”

6. 40 CFR 262.13 as referenced by 9VAC20-60-262 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.”
7. 40 CFR 262.13, as referenced in 9 VAC 20-60-262, provides that a generator that generates 1,000 kg or greater of non-acute hazardous waste in a calendar month is a large quantity generator.
8. 9 VAC 20-60-315.D. states that: “Anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record.”
9. 9 VAC 20-60-315(B) states that: “Any person involved in hazardous waste management activities that did not comply with the notification requirements of the EPA as referenced in 9 VAC 20-60-305 B but is subject to those requirements shall notify the department in writing of their hazardous waste management activities by the effective date of this chapter. Notification shall be accomplished by the use of EPA Form 8700-12.”
10. 40 CFR 262.17(a)(7) as referenced by 9 VAC 20-60-262 states that: “Facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv) of this section.”
11. 40 CFR 262.260(a) as referenced by 9 VAC 20-60-262 states that: “A large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.”
12. 40 CFR 262.261(b) as referenced by 9 VAC 20-60-262 states: “If the generator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with part 112 of this chapter, or some other emergency or contingency plan, it need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the standards of this part. The generator may develop one contingency plan that meets all regulatory standards. EPA recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance (“One Plan”).”

13. 40 CFR 262.16(b)(2)(iv) as referenced by 9 VAC 20-60-262 states in part: “At least weekly, the small quantity generator must inspect central accumulation areas. The small quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.”
14. 40 CFR 262.17(a)(1)(v) as referenced by 9 VAC 20-60-262 states in part: “At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.”
15. 9 VAC 20-60-262(B)(4) states that: “For accumulation areas established after March 1, 1988, a large quantity generator shall notify the department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR 262.17 prior to or immediately upon the establishment of each 90-day accumulation area. In the case of a new large quantity generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity EPA Form 8700-12 that he intends to accumulate hazardous waste in accordance with 40 CFR 262.18. This notification shall specify the exact location of the 90-day accumulation area at the site.”
16. On January 8, 2020, DEQ issued NOV No. 2020-VRO-0001 for the above mentioned violations of the VHWMR.
17. On January 27, 2020, DEQ staff met with Cadence representatives to discuss the NOV and outstanding compliance items. Cadence representatives provided the following documentation and discussion of corrective measures to implement at the Facility:
 - a. Provided a spreadsheet representing manifested quantities generated and shipped;
 - b. A copy of the training plan;
 - c. A copy of the contingency plan;
 - d. A plan to submit EPA Form 8700-12 to update the owner of the Facility by February 2, 2020;
 - e. A plan to implement a weekly inspection list for the accumulation area;
 - f. A plan to document the location of the 90-day accumulation area.
18. On January 29, 2020, DEQ staff reviewed the information provided by Cadence during the January 27, 2020 meeting. Upon review, the training plan provided by Cadence was determined to meet the regulatory requirements of the VHWMR. DEQ staff analysis of the information provided in 17.a. confirmed that the Facility is a LQG.

19. On February 5, 2020, the EPA ID information was updated to show Cadence as the owner. Cadence registered as a SQG.
20. On March 24, 2020, DEQ staff requested additional information related to the contingency plan provided by Cadence representatives, as identified in Item 16.c.
21. Based on the results of the November 1, 2019 inspection, the January 27, 2020 meeting, and the documentation submitted on January 27, 2020 and February 5, 2020, the Board concludes that Cadence has violated 40 CFR 262.10(b), 40 CFR 262.13, 9 VAC 20-60-315.D, 9 VAC 20-60-315(B), 40 CFR 262.260(a), 40 CFR 262.261(b), 40 CFR 262.16(b)(2)(iv), 40 CFR 262.17(a)(1)(v), and 9 VAC 20-60-262(B)(4), as described in paragraphs C(4) through C(20).
22. Cadence has submitted documentation that verifies that the violations described in paragraphs C(4)(b) and C(4)(c), above, have been corrected.
23. In order for Cadence to complete its return to compliance, DEQ staff and representatives of Cadence 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 Cadence, and Cadence agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$15,050 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

Cadence 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, Cadence 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 Cadence for good cause shown by Cadence, 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 NOV No. 2020-VRO-0001 dated January 8, 2020. 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, Cadence admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Cadence 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. Cadence 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 Cadence 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. Cadence 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. Cadence shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Cadence 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 Cadence. Nevertheless, Cadence 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 Cadence has completed all of the requirements of the Order;
 - b. Cadence 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 Cadence.

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

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, Cadence voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2020.

Amy Owens, Regional Director
Department of Environmental Quality

------(Remainder of Page Intentionally Blank)-----

Cadence, Inc. voluntarily agrees to the issuance of this Order.

Date: 9/2/20 By: Thomas W. Nell;
[Signature] (Person), V.P. of Mfg. (Title)
Cadence, Inc.

Commonwealth of Virginia

(City) County of Staunton

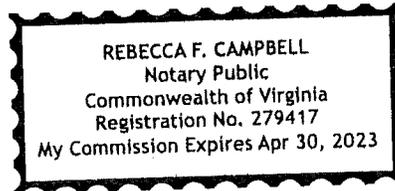
The foregoing document was signed and acknowledged before me this 2nd day of September, 2020, by Thomas W. Nell; who is VP of Manufacturing of Cadence, Inc., on behalf of the corporation.

Rebecca F. Campbell
Notary Public

279417
Registration No.

My commission expires: April 30, 2023

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Contingency Plan

Within 30 days of the effective date of this Order, Cadence shall provide the additional information requested by DEQ staff for the contingency plan for the Facility in accordance with 40 C.F.R. § 262 and submit a copy of the contingency plan to DEQ for review. The following additional information is necessary to complete the contingency plan:

- a. The names and emergency numbers of all persons qualified to act as emergency coordinators;
- b. List of emergency equipment at the Facility and location of the emergency equipment;
- c. List of signals that are to be used for evacuation and location of the evacuation routes; and
- d. A quick reference guide to local emergency responders, including names and type of waste that may be present at any one time, map of the Facility, location of water supply, and names of emergency coordinators.

Within 10 days after final approval by DEQ, Cadence shall certify in writing that a copy of the contingency plan has been provided to the necessary parties under 40 C.F.R. § 262.262(a) and that the contingency plan will be implemented, as needed, in accordance with 40 C.F.R. Subpart D.

2. Weekly Accumulation Area Log

Within 30 days of the effective date of this Order, Cadence shall start a weekly inspection program and provide a weekly inspection log for inspection to DEQ staff.

3. Notification of Hazardous Waste Storage Areas

Within 30 days of the effective date of this Order, Cadence shall provide notification to DEQ of the hazardous waste storage areas and include this information in the contingency plan.

4. Contact

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

Eric Millard
Enforcement Specialist Senior
VA DEQ – Valley Regional Office
PO Box 3000, Harrisonburg, VA 22801
(540) 574-7813

Consent Order
Cadence, Inc.; EPA ID. No. VAR000010777
Page 12 of 12

(540) 574-7878 (Fax)
Eric.millard@deq.virginia.gov